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Attorneys for Debtors  
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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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	:
<b>In re</b>	:
	:
<b>LEHMAN BROTHERS HOLDINGS INC., <i>et al.</i>,</b>	:
	:
<b>Debtors.</b>	:
	:
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**NOTICE OF MOTION OF LEHMAN COMMERCIAL  
PAPER INC. PURSUANT TO FEDERAL RULES OF BANKRUPTCY  
PROCEDURE 6004 AND 9019 AND SECTION 363 OF THE  
BANKRUPTCY CODE FOR AUTHORITY TO CONSUMMATE  
TRANSACTIONS CONTEMPLATED IN THE CHAPTER 11 PLAN  
PROPOSED BY THE LEHMAN LENDERS IN THE SUNCAL CHAPTER 11 CASES**

PLEASE TAKE NOTICE that a hearing on the annexed motion (the “Motion”) of Lehman Commercial Paper Inc. (“LCPI” and together with its affiliated debtors in the above-referenced chapter 11 cases, as debtors and debtors in possession, the “Debtors”), pursuant to Rules 6004 and 9019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and section 363 of title 11 of the United States Code (the “Bankruptcy Code”) authorizing LCPI (i) to propose, along with certain of LCPI’s non-debtor affiliates, a chapter 11 plan of reorganization for certain debtors whose chapter 11 cases are being jointly administered in the United States Bankruptcy Court for the Central District of California (the “SunCal Debtors”) and (ii) to enter, along with certain of LCPI’s non-debtor affiliates, into the transactions

contemplated therein, as more fully described in the Motion, will be held before the Honorable James M. Peck, United States Bankruptcy Judge, at the United States Bankruptcy Court, Alexander Hamilton Customs House, Courtroom 601, One Bowling Green, New York, New York 10004 (the “Bankruptcy Court”), on **October 7, 2009 at 10:00 a.m. (Prevailing Eastern Time)** (the “Hearing”).

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Motion shall be in writing, shall conform to the Bankruptcy Rules and the Local Rules of the Bankruptcy Court for the Southern District of New York, shall set forth the name of the objecting party, the basis for the objection and the specific grounds thereof, shall be filed with the Bankruptcy Court electronically in accordance with General Order M-242 (which can be found at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov)) by registered users of the Bankruptcy Court’s case filing system and by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format (with two hard copies delivered directly to Chambers), and shall be served upon: (i) the Chambers of the Honorable James M. Peck, One Bowling Green, New York, New York 10004, Courtroom 601; (ii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, Attn: Shai Waisman, Esq., attorneys for the Debtors; (iii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 Attn: Andy Velez-Rivera, Esq., Paul Schwartzberg, Esq., Brian Masumoto, Esq., Linda Riffkin, Esq., and Tracy Hope Davis; Esq., (iv) Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005, Attn: Dennis F. Dunne, Esq., Dennis O’Donnell, Esq., and Evan Fleck, Esq., attorneys for the official committee of unsecured creditors appointed in these cases; (v) Winthrop Couchot P.C., 660 Newport Center Drive, Ste 400, Newport Beach, CA

92660, Attn: Paul J. Couchot, attorneys for the SunCal Debtors that have commenced voluntary cases under chapter 11 of the Bankruptcy Code; and (vi) The Lobel Firm, LLP, 840 Newport Center Drive, Suite 750, Newport Beach, CA 92660, Attn: William N. Lobel, attorneys for the SunCal Debtors that have filed involuntary petitions for relief under Chapter 11 of the Bankruptcy Code, so as to be so filed and received by no later than **October 2, 2009 at 4:00 p.m. (prevailing Eastern Time)** (the “Objection Deadline”).

PLEASE TAKE FURTHER NOTICE that if an objection to the Motion is not received by the Objection Deadline, the relief requested shall be deemed unopposed, and the Bankruptcy Court may enter an order granting the relief sought without a hearing.

PLEASE TAKE FURTHER NOTICE that objecting parties are required to attend the Hearing, and failure to appear may result in relief being granted or denied upon default.

Dated: September 16, 2009  
New York, New York

/s/ Shai Y. Waisman  
Shai Y. Waisman

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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re	: Chapter 11 Case No.
	:
LEHMAN BROTHERS HOLDINGS INC., <i>et al.</i> ,	: 08-13555 (JMP)
	:
Debtors.	: (Jointly Administered)
	:
-----X	

**MOTION OF LEHMAN COMMERCIAL PAPER INC.  
PURSUANT TO FEDERAL RULES OF BANKRUPTCY  
PROCEDURE 6004 AND 9019 AND SECTION 363 OF THE  
BANKRUPTCY CODE FOR AUTHORITY TO CONSUMMATE  
TRANSACTIONS CONTEMPLATED IN THE CHAPTER 11 PLAN  
PROPOSED BY THE LEHMAN LENDERS IN THE SUNCAL CHAPTER 11 CASES**

TO THE HONORABLE JAMES M. PECK  
UNITED STATES BANKRUPTCY JUDGE:

Lehman Commercial Paper Inc. ("LCPI," together with its affiliated debtors in the above-referenced chapter 11 cases, as debtors and debtors-in-possession, the "Debtors," and collectively with their non-debtor affiliates, "Lehman"), files this motion (the "Motion") and respectfully represents:

## **Preliminary Statement**

1. Prior to the commencement of the Debtors' chapter 11 cases, LCPI and three non-debtor Lehman affiliates, Lehman ALI, Inc. ("Lehman ALI"), OVC Holdings LLC ("OVC Lender"), and Northlake Holdings LLC ("Northlake Lender" and together with LCPI, Lehman ALI and OVC Lender, the "Lehman Lenders"), provided over \$2 billion in senior secured financing (the "Financing") to certain indirect subsidiaries (the "SunCal Borrowers") of SCC Acquisitions, Inc. ("SCC Acquisitions") pursuant to various separate loan agreements. After the commencement of the Debtors' chapter 11 cases, certain of the SunCal Borrowers became voluntary debtors (the "SunCal Voluntary Debtors")<sup>1</sup> or involuntary debtors (the "SunCal Involuntary Debtors" and together with the SunCal Voluntary Debtors, the "SunCal Debtors")<sup>2</sup> in cases under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Central District of California, Santa Ana Division (the "California Bankruptcy Court").

2. To increase the prospect for recovery by the Lehman Lenders from the SunCal Debtors, the Lehman Lenders have proposed a joint chapter 11 plan for certain of the SunCal Debtors (the "Proposed Plan"), a copy of which is attached hereto as Exhibit A. If the Proposed Plan is confirmed by the California Bankruptcy Court, pursuant to such plan, LCPI may be required to enter into certain settlements or compromises with other creditors of the SunCal Debtors and to use certain assets of its estate outside the ordinary course of its business.

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<sup>1</sup> The SunCal Voluntary Debtors are Palmdale Hills Property, LLC; SunCal Bickford Ranch, LLC; SunCal Emerald Meadows, LLC; Acton Estates, LLC; SunCal Summit Valley, LLC; Seven Brothers, LLC; Kirby Estates, LLC; SunCal Beaumont Heights, LLC; SunCal Johansson Ranch, LLC; SunCal Communities I, LLC; SJD Development Corp.; SunCal Communities III, LLC; SCC/Palmdale, LLC; SJD Partners, Ltd.; North Orange Del Rio Land, LLC; Tesoro SF LLC; and SCC Communities LLC.

<sup>2</sup> The SunCal Involuntary Debtors are SunCal Century City, LLC; SunCal Oak Knoll, LLC; SunCal Torrance Properties, LLC; SunCal Marblehead, LLC; SunCal Heartland, LLC; LB/L-SunCal Northlake, LLC; LB/L-SunCal Oak Valley, LLC; SunCal PSV, LLC and Delta Coves Venture, LLC.

Specifically, pursuant to the Proposed Plan, the Lehman Lenders would collectively, among other things, make available an amount of up to \$15 million to settle certain equitable subordination claims made against the Lehman Lenders by the SunCal Debtors on behalf of non-Lehman unsecured creditors of the SunCal Debtors. Additionally, the Lehman Lenders, and/or any other entity that either asserts to be or is determined by the California Bankruptcy Court to be the owner of any of the loans (or any portion thereof under which the Lehman Lenders have provided Financing (together with the Lehman Lenders, the “Lehman Creditors”) would have the right to credit bid on certain of the properties securing the Financing. Accordingly, LCPI requests, pursuant to section 363 of the Bankruptcy Code and Rules 6004 and 9019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), authority to enter into and consummate the transactions set forth in the Proposed Plan in the event that the Proposed Plan is confirmed by the California Bankruptcy Court.<sup>3</sup>

### **Background**

3. Commencing on September 15, 2008 and periodically thereafter (as applicable, the “Commencement Date”), Lehman Brothers Holdings Inc. and the other Debtors commenced with this Court voluntary cases under chapter 11 the Bankruptcy Code. The Debtors’ chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Bankruptcy Rule 1015(b). The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

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<sup>3</sup> For the avoidance of doubt, LCPI is not seeking a determination by this Court that the Proposed Plan is confirmable. LCPI and the other Lehman Lenders will abide by the procedures established by the California Bankruptcy Court for proposing and confirming the Proposed Plan.

4. On September 17, 2008, the United States Trustee for the Southern District of New York (the “U.S. Trustee”) appointed the statutory committee of unsecured creditors pursuant to section 1102 of the Bankruptcy Code (the “Creditors’ Committee”).

5. On September 19, 2008, a proceeding was commenced under the Securities Investor Protection Act of 1970 (“SIPA”) with respect to Lehman Brothers Inc. (“LBI”). A trustee appointed under SIPA is administering LBI’s estate.

6. On January 19, 2009, the U.S. Trustee appointed Anton R. Valukas as examiner in the above-captioned chapter 11 cases (the “Examiner”) and by order, dated January 20, 2009 [Docket No. 2583] the Court approved the U.S. Trustee’s appointment of the Examiner.

### **Jurisdiction**

7. This Court has subject matter jurisdiction to consider and determine this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

### **Lehman’s Business**

8. Prior to the events leading up to these chapter 11 cases, Lehman was the fourth largest investment bank in the United States. For more than 150 years, Lehman had been a leader in the global financial markets by serving the financial needs of corporations, governmental units, institutional clients and individuals worldwide.

9. Additional information regarding the Debtors’ businesses, capital structures, and the circumstances leading to the commencement of these chapter 11 cases is contained in the Affidavit of Ian T. Lowitt Pursuant to Rule 1007-2 of the Local Bankruptcy Rules for the Southern District of New York in Support of First-Day Motions and Applications, filed on September 15, 2008 [Docket No. 2].

### **Lehman's Relationship with the SunCal Debtors**

10. Prior to the commencement of their chapter 11 cases, the SunCal Debtors' businesses focused upon the development of residential land in California. Over the past five years, the Lehman Lenders became the SunCal Debtors' largest funding source for financing, pursuant to various separate loan agreements, secured by deeds of trust on certain of the SunCal Debtors' real estate projects and certain cash collateral and other assets of the SunCal Debtors' estates. In the aggregate, the SunCal Debtors owe in excess of \$2 billion in respect of the Financing.

11. Of the over \$2 billion owed by the SunCal Debtors in respect of the Financing, in excess of \$630 million is owed collectively under (i) that certain Credit Agreement, dated as of November 17, 2005, by and among SunCal Communities I, LLC ("SunCal I") and SunCal Communities III, LLC ("SunCal III"), as borrowers, and LCPI, as syndication and administrative agent and sole lender, among other parties (as heretofore amended, the "SunCal Communities Loan Agreement") and (ii) that certain Credit Agreement, dated as of February 8, 2007, by and between Palmdale Hills Property, LLC ("Palmdale Hills"), as borrower, and LCPI, as administrative agent and lender (as heretofore amended, the "Ritter Ranch Loan Agreement").

12. Pursuant to the SunCal Communities Loan Agreement, SunCal I and SunCal III, as borrowers, and certain other SunCal Debtors, as guarantors, each are indebted thereunder, individually and collectively, in the approximate aggregate amount of \$343 million. The obligations of SunCal I and SunCal III under the SunCal Communities Loan Agreement are secured by pledges of 100% of the membership interests of SunCal I in SunCal Johansson Ranch, LLC SunCal Beaumont Heights, LLC, SunCal Summit Valley, LLC ("Summit Valley"), SunCal Emerald Meadows, LLC ("Emerald Meadows") and SunCal Bickford Ranch, LLC



(“Bickford Ranch”); deeds of trust on the real properties owned by Bickford Ranch, Emerald Meadows, and Acton Estates, LLC; and pledges of 100% of the membership interests of Summit Valley in Kirby Estates, LLC and Seven Brothers, LLC.

13. Palmdale Hills owes approximately \$287 million under the Ritter Ranch Loan Agreement. The obligations of Palmdale Hills are secured by a deed of trust in the property known as Ritter Ranch, which is owned by Palmdale Hills.<sup>4</sup>

14. In addition to the over \$2 billion owed by the SunCal Debtors in respect of the Financing, the SunCal Debtors owe in excess of \$200 million to certain other third-party creditors. While the SunCal Debtors’ obligations to their creditors aggregate to in excess of \$2.2 billion, the SunCal Debtors collectively own real estate projects and certain related cash with an estimated collective value of only \$350 million to \$600 million.

15. Between November 6, 2008 and November 19, 2008, chapter 11 petitions were voluntarily filed by the seventeen SunCal Voluntary Debtors and were involuntarily filed by creditors of and against the nine SunCal Involuntary Debtors.

16. In January 2009, the SunCal Debtors commenced an adversary proceeding in the SunCal Debtors’ chapter 11 cases (the “Adversary Proceeding”) seeking, among other things, to subordinate all of the Lehman Lenders’ claims to payment in full of all unsecured claims against all of the SunCal Debtors (the “Equitable Subordination Action”). The SunCal

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<sup>4</sup> LCPI repo’d the entirety of the loan evidenced by the the SunCal Communities Loan Agreement and the term loan portion of the loan evidenced by the Ritter Ranch Loan Agreement to Fenway Capital Funding LLC (“Fenway”) pursuant to a repurchase agreement. The California Bankruptcy Court ruled that the transfer of such loans to Fenway pursuant to the repurchase agreement constituted the sale of such loans. Notwithstanding the foregoing, LCPI believes that it holds economic interests in the loan made pursuant to the SunCal Communities Loan Agreement and the Ritter Ranch Loan Agreement. The Lehman Lenders reserve all of their rights in connection with the California Bankruptcy Court’s ruling regarding the repurchase transactions, including, without limitation, the right to appeal the ruling and to assert that the transactions under the repurchase agreement constituted transfers for security and not outright sales. All of the Lehman Lenders’ rights in connection therewith are hereby reserved. Regardless, LCPI is the undisputed owner of the revolving loan portion of the loan evidenced by the Ritter Ranch Loan Agreement, pursuant to which Palmdale Hills owes LCPI approximately \$43.6 million.

Debtors twice amended their complaint in the Adversary Proceeding, and, thereafter, the Lehman Lenders moved to dismiss the second amended complaint. On June 11, 2009, the California Bankruptcy Court granted the Lehman Lenders' motion to dismiss the second amended complaint, with leave to further amend the complaint, on the grounds that the SunCal Debtors had failed, among other things, to state certain claims, make allegations with sufficient particularity, tie specific defendants to inequitable conduct, or sufficiently identify the alleged injured creditors. In July 2009, the SunCal Debtors filed a third amended complaint, in response to which the Lehman Lenders intend to file yet another motion to dismiss.

17. SCC Acquisitions, the indirect parent of each of the SunCal Debtors, and the SunCal Voluntary Debtors have filed a chapter 11 plan (the "Competing Plan") for the SunCal Debtors, and in connection therewith, a disclosure statement and three amended disclosure statements in support of the Competing Plan. The Competing Plan is premised on a favorable ruling in the Equitable Subordination Action and requires a substantive consolidation of the SunCal Debtors' estates in order to reallocate from one SunCal Debtor to the other SunCal Debtors any surplus recovery against the Lehman Lenders on account of the Equitable Subordination Action, which litigation could take years to resolve. Absent success by the SunCal Debtors in the Equitable Subordination Action, the Competing Plan does not provide any recovery for any general unsecured creditors of any of the SunCal Debtors (with the possible exception of certain holders of bond claims against bond insurers who issued bonds for the benefit of certain of the SunCal Debtors).

### **The Proposed Plan**

18. As a counterpoint to the Competing Plan, the Lehman Lenders have filed with the California Bankruptcy Court the Proposed Plan for 24 of the 26 SunCal Debtors (the

“SunCal Plan Debtors”),<sup>5</sup> a copy of which is attached hereto as Exhibit A, and a disclosure statement for the Proposed Plan, a copy which is attached hereto as Exhibit B (the “Disclosure Statement”). A hearing for approval of the Disclosure Statement is scheduled before the California Bankruptcy Court on October 15, 2009.

19. There is no guarantee that the Proposed Plan will be confirmed by the California Bankruptcy Court; however, the Proposed Plan will increase the prospect for the Lehman Lenders’ recovery of the debts owed by the SunCal Plan Debtors and enable a reasonable and timely resolution of the SunCal Plan Debtors’ chapter 11 cases.

20. The salient terms of the Proposed Plan are as follows:<sup>6</sup>

***The Proposed Sale***

The Lehman Creditors would credit bid, with respect to some or all of the projects on which they have deeds of trust or pledges of equity interests to secure the related loans (such projects being referred to as the “Properties”) an amount equal to the appraised fair market value of the Properties, at one or more auctions through which there would either be a sale pursuant to section 363 of the Bankruptcy Code to a third party purchaser or a court sanctioned foreclosure and conveyance to an entity designated by the Lehman Lenders, or any of them, to take title to a Property as to which a Lehman Creditor is the successful bidder (the “Lehman Nominees”) (in either case, free and clear of all liens, claims and encumbrances other than those that are determined to be senior to the Lehman Lenders’ liens) (the “Proposed Sale”). The Lehman Creditors would be permitted, but not obligated, to further credit bid up to the amount of their debt on the applicable Properties. If a Lehman Lender is not the successful bidder as to a particular Property, the proceeds from the sale of such Property to a third party purchaser will be deposited into a cash escrow to be established pending the outcome of the Equitable Subordination Action. The maximum amount to be deposited into the cash escrow is \$200 million. This amount (the “Maximum Security Amount”) would also provide a cap on the amount secured by the Cash Escrow

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<sup>5</sup> Two SunCal Voluntary Debtors, SunCal III and SJD Development Corp., are not included in the Proposed Plan because they have no assets with any significant value.

<sup>6</sup> This summary of the Proposed Plan (this “Summary”) is qualified in its entirety by the terms set forth in the Proposed Plan. This Summary is intended to be used for information purposes only and shall not, in any way, affect the meaning or interpretation of the Proposed Plan. Capitalized terms used, but not otherwise defined herein, shall have the meanings ascribed to them in the Proposed Plan.

and the Security Properties (each as defined below under *Protection for Creditors*).

***Equitable  
Subordination Claims***

The Proposed Sale and all other terms of the Proposed Plan will be without prejudice to the respective rights, defenses and positions of the parties in the Equitable Subordination Action except as described below under *Substantive Consolidation*.

***Protection for  
Creditors***

In order to provide a *res* for the Allowed ES Claimants (as defined below) to pursue if the Property-owning SunCal Plan Debtors are successful in equitably subordinating the Lehman Lenders' liens on the Properties to the claims of the Allowed ES Claimants in the prosecution of the Equitable Subordination Action (collectively, the "ES Claim Component") and for allowed general unsecured claimants to pursue if there is a recovery in respect of a fraudulent conveyance action on certain of the Properties (collectively, the "Avoidance Action Component"), (a) the Lehman Lenders would allow a liquidating trustee to hold in a cash reserve (the "Cash Escrow") all cash and cash equivalents held in reserve accounts for the benefit of LCPI or any other Lehman Lender and securing the obligations under the Ritter Ranch Loan Agreement or securing any of the other loans as of the closing of the Proposed Sale (following the use or reserve for the use of such cash as provided for in the Proposed Plan) (the "Project Cash"),<sup>7</sup> and (b) the Lehman Nominees would grant deeds of trust with respect to their Properties (collectively, the "Security Properties") for the benefit of the liquidating trustee to secure recovery in respect of the ES Claim Component or the Avoidance Action Component up to the proposed Maximum Security Amount (i.e. there would not be recourse to the Lehman Nominees beyond the Security Properties). The Lehman Nominees would have full right to sell, refinance, manage and operate the Security Properties in all respects after the Proposed Sale, subject to certain conditions to protect the creditors' interests.

***Substantive  
Consolidation***

In all respects pertaining to the Equitable Subordination Action, the Lehman Lenders would reserve their rights to contest substantive consolidation. The Lehman Lenders would, however, agree not to contest any de facto substantive consolidation that is effectuated after the conclusion of the Equitable Subordination Action solely for the purpose of administering and distributing any recoveries resulting from any judgment obtained in connection with the Equitable

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<sup>7</sup> The current amount of the cash held by the SunCal Debtors constituting cash collateral of the lenders under the Ritter Ranch Loan Agreement (the "Ritter Cash") is approximately \$22 million. Other cash constituting cash collateral of the Lehman Creditors with respect to other loans made to the SunCal Debtors is approximately \$2-4 million. The Lehman Lenders anticipate that a portion of the Ritter Cash in an amount to be determined may be used to fund payments to settling creditors electing the Settlement Option as described below.

Subordination Action among allowed beneficiaries of the ES Claim Component (the “Allowed ES Claimants”). The proceeds of a security pool, comprised of the Cash Escrow and Security Properties (the “Security Pool”), would be available to satisfy any such judgment. Essentially, the Lehman Lenders would agree to subordinate their deficiency claims to the distribution rights of the Allowed ES Claimants up to the amount of any judgment or recovery in respect of the ES Claim Component of the Equitable Subordination Action. Additionally, the Lehman Lenders would waive any arguments that no judgment is possible in the Equitable Subordination Action in favor of the creditors of SJD Partners, Ltd. (the former owner of the project known as Pacific Point, and which entity has no real estate assets) and North Orange Del Rio Land, LLC (which entity has no real estate assets) in an amount exceeding the value of the assets held by the applicable SunCal Debtors (subject, however, to the overall limitation to recovery from the Security Pool in the Maximum Security Amount).

***The Settlement Option***

The Lehman Lenders would make available an aggregate amount equal to \$15 million (the “Settlement Payment”) to pay ES Claimants (as defined below) who prefer to settle their ES Claims (as defined below) for cash payments (such option to be exercised by the ES Claimants prior to the consummation of the Proposed Plan), in full settlement of such ES Claims, provided that such ES Claimants execute and deliver unconditional, irrevocable and general releases in favor of the Lehman Lenders, the Lehman Nominees, any future owners of the applicable Property or Properties and all other defendants in the Equitable Subordination Action and their respective affiliates (the “Settlement Option”). The Settlement Payment would be funded from the Project Cash, if available, or otherwise from the Lehman Lenders’ own sources.

Notwithstanding the foregoing, if (i) ES Claimants holding at least two-thirds of all ES Claims of a particular SunCal Debtor (in dollar amount), and (ii) at least one-half of all ES Claimants (in number) of such particular SunCal Debtor exercise the Settlement Option, then the Settlement Option would be applicable to and binding upon all ES Claimants of such SunCal Debtor including those ES Claimants who opposed the Settlement Option, did not exercise the Settlement Option or otherwise elected not to accept the Settlement Option.

For purposes of the foregoing two paragraphs, “ES Claim” means an allowed claim against one or more of the Property-owning SunCal Plan Debtors (not including any claims held by the Lehman Lenders and certain other entities more specifically set forth in the Proposed Plan) to which the Lehman Lenders’ liens and security interests are sought to be equitably subordinated in the Equitable Subordination

Action and “ES Claimant” means any holder of an ES Claim.

***ES Litigation Funds*** If present SunCal Plan Debtors’ litigation counsel resigns for any reason whatsoever, Lehman ALI would agree to make available to the SunCal Plan Debtors debtor-in-possession loans in an aggregate amount of up to \$1 million which will accrue interest at 10% and which may be used solely for the payment of reasonable out-of-pocket expenses (but not any legal fees) of any counsel retained by the SunCal Plan Debtors on a contingency fee basis to prosecute the Equitable Subordination Action.

***Additional Funding*** The Lehman Lenders (or any one of them) also would make available necessary funding to confirm the Proposed Plan and enable its implementation either directly, up to an amount of \$5 million, and/or from the Project Cash.

### **Relief Requested**

21. LCPI requests, pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rules 6004 and 9019, authority to enter into and consummate the transactions set forth in the Proposed Plan in the event that the Proposed Plan is confirmed by the California Bankruptcy Court.

### **The Proposed Plan Fits the Legal Standard Established Under Rule 9019 and is in the Bests Interests of LCPI’s Estate**

22. The Proposed Plan, including the Settlement Payment, is in LCPI’s best interests and should be approved under Bankruptcy Rule 9019. Bankruptcy Rule 9019(a) provides that, “[o]n motion by the [debtor in possession] and after notice and a hearing, the court may approve a compromise or settlement.” FED. R. BANKR. P. 9019(a). In granting a motion pursuant to Rule 9019(a), a court must find that the proposed settlement is fair and equitable and is in the best interests of the estate. *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968); *Fisher v. Pereira (In re 47-49 Charles St., Inc.)*, 209 B.R. 618, 620 (S.D.N.Y. 1997); *In re Ionosphere Clubs, Inc.*, 156 B.R. 414, 426 (S.D.N.Y. 1993), *aff’d*, 17 F.3d 600 (2d Cir. 1994).

23. The decision to approve a particular settlement lies within the sound discretion of the bankruptcy court. *Nellis v. Shugrue*, 165 B.R. 115, 123 (S.D.N.Y. 1994). It is the responsibility of a court to examine a settlement and determine whether it “falls below the lowest point in the range of reasonableness.” *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983); *In re Spielfogel*, 211 B.R. 133, 144 (Bankr. E.D.N.Y. 1997). Additionally, a court may exercise its discretion “in light of the general public policy favoring settlements.” *In re Hibbard Brown & Co., Inc.*, 217 B.R. 41, 46 (Bankr. S.D.N.Y. 1998).

24. While a court must “evaluate ... all ... factors relevant to a fair and full assessment of the wisdom of the proposed compromise,” *Anderson*, 390 U.S. at 424-25, a court need not conduct a “mini-trial” of the merits of the claims being settled, *W.T. Grant Co.*, 699 F.2d at 608, or conduct a full independent investigation. *In re Drexel Burnham Lambert Group, Inc.*, 134 B.R. 493, 496 (Bankr. S.D.N.Y. 1991). “[T]he bankruptcy judge does not have to decide the numerous questions of law and fact.... The court need only canvass the settlement to determine whether it is within the accepted range of reasonableness.” *Nellis*, 165 B.R. at 123 (internal citations omitted).

25. The Court may give weight to the informed judgment of the debtor that a compromise is fair and equitable. *In re Purofied Down Prods. Corp.*, 150 B.R. 519, 522 (S.D.N.Y. 1993); accord *In re Ashford Hotels Ltd.*, 226 B.R. 797, 802 (Bankr. S.D.N.Y. 1998) (“Significantly, that test does not contemplate that I substitute my judgment for the Trustee’s, but only that I test his choice for reasonableness.... If the Trustee chooses one of two reasonable choices, I must approve that choice, even if, all things being equal, I would have selected the other.”).

26. LCPI has determined that the Settlement Payment provides the best framework for resolving its disputes with the ES Claimants in the Equitable Subordination Action. The Lehman Lenders intend to file a motion to dismiss the SunCal Debtors' third amended complaint in the Adversary Proceeding that includes the Equitable Subordination Action. Nonetheless, the Lehman Lenders' prospects for their success in the Equitable Subordination Action are uncertain, and the litigation of such action will be prolonged and costly. As a result, pursuant to the Proposed Plan, the Lehman Lenders will make available the Settlement Payment of \$15 million to pay ES Claimants who prefer to settle their ES Claims upon consummation of the Proposed Plan for cash payments. Each settling ES Claimant would receive a portion of the Settlement Payment based upon the amount of their ES Claim relative to all ES Claims. LCPI's share of the Settlement Payment, if any, will depend upon which ES Claimants accept the Settlement Option and the relative proportion of all ES Claims that are held by settling ES Claimants related to the projects securing the loans made under the Ritter Ranch Loan Agreement and the SunCal Communities Loan Agreement.

27. In exchange for the Settlement Payment, the settling ES Claimants would execute and deliver unconditional, irrevocable and general releases in favor of the Lehman Lenders, the Lehman Nominees, any future owners of the Properties and all other defendants in the Equitable Subordination Action and their respective affiliates. If ES Claimants holding at least two-thirds of the dollar amount of the ES Claims of a particular SunCal Debtor agree to accept the Settlement Option, then the Settlement Option would be applicable to, and binding upon, all ES Claimants of such SunCal Debtor.

28. In short, by making available the Settlement Payment, the Lehman Lenders will increase the likelihood that they will avoid protracted, expensive and uncertain



litigation in the Equitable Subordination Action and thereby increase their prospects for recovery from the SunCal Plan Debtors.

29. The cost of settling the Equitable Subordination Action, from which the prospect of success through litigation is uncertain, is outweighed by the benefits of obtaining, on a consensual basis, releases from the ES Claimants who accept the Settlement Option, which in turn increases the likelihood that the Lehman Lenders will realize a recovery with respect to the Financing. In light of such benefits, the Settlement Payment is fair and reasonable. As a result, the Proposed Plan benefits LCPI, its estate, and its creditors.

**The Proposed Plan is an Appropriate Exercise of LCPI's Business Judgment**

30. Ample authority exists for approval of the Proposed Plan and the transactions contemplated therein pursuant to section 363 of the Bankruptcy Code. Section 363 provides, in relevant part, “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). While section 363 of the Bankruptcy Code does not set forth a standard for determining when it is appropriate for a court to authorize the sale, disposition or other use of a debtor’s assets, courts in the Second Circuit and others, in applying this section, have required that it be based upon the sound business judgment of the debtor. *See in re Global Crossing, Ltd.*, 295 B.R. 726, 744 (Bankr. S.D.N.Y. 2003) (“In evaluating whether a sound business purpose justifies the use, sale or lease of property under section 363(b), courts consider a variety of factors, which essentially represents the ‘business judgment test’.”) (quoting *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999)); *see, e.g. In re Delphi Corp.*, 2009 WL 637315, at \* 9 (Bankr. S.D.N.Y. Mar. 10, 2009) (applying the business judgment rule). The business judgment rule is “a strong presumption that in making a business decision the directors of a corporation acted on

an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.” *In re Integrated Res., Inc.*, 147 B.R. 650, 656 (S.D.N.Y. 1992) (internal citations and quotations omitted). Courts are loath to interfere with corporate decisions absent a showing of bad faith, self-interest or gross negligence. *Id.* Further, parties opposing the proposed exercise of a debtor’s business judgment have the burden of rebutting the presumption of validity. *Id.* (quotation omitted).

31. LCPI has determined, in the sound exercise of its business judgment, that entry into and consummation of the transactions contemplated in the Proposed Plan are in the best interests of LCPI’s estate and creditors. SunCal Plan Debtors owe in excess of \$2 billion in respect of the Financing. Of that amount, the SunCal Debtors owe approximately \$630 million in respect of the Ritter Ranch Loan Agreement and the SunCal Communities Loan Agreement. Pursuant to the Proposed Plan, the Lehman Creditors would be obligated to credit bid a minimum amount (based on appraisal amounts) on certain of the Properties and would be permitted, but not obligated, to credit bid up to the amount of their debt on each of such Properties at one or more auctions for such Properties pursuant to section 363 of the Bankruptcy Code (or a court sanctioned foreclosure and conveyance to a Lehman Nominee). Because each of the Lehman Creditors would be credit bidding for the Properties, and thus only bidding up to the amount of its security interest in each of the Properties, the Proposed Sale allows each of them to potentially obtain a recovery on the Financing without using any additional assets in the auction process.

32. LCPI believes that the terms set forth in the Proposed Plan are fair and reasonable under the circumstances. To allow the Lehman Lenders to potentially obtain the Properties free and clear of all liens, claims and encumbrances and in light of the pending

Equitable Subordination Action, the Lehman Creditors will create a Security Pool to provide an alternative *res* for the ES Claimants to pursue in the event that the SunCal Plan Debtors that currently own the Properties are successful in the Equitable Subordination Action. Specifically, the Lehman Lenders would allow a liquidating trustee to hold the Cash Escrow, and the Lehman Nominees would grant deeds of trust with respect to the Security Properties in favor of such liquidating trustee. Notwithstanding the creation of the Security Pool, the Lehman Lenders will also attempt to resolve their disputes with the ES Claimants in the Equitable Subordination Action by making available the Settlement Payment of \$15 million. As discussed, the Settlement Payment will increase the likelihood that the Lehman Lenders will avoid costly, protracted and uncertain litigation.

33. Additionally, the Lehman Lenders would make available any funding necessary to confirm the Proposed Plan and enable its implementation either directly, up to an amount of \$5 million, and/or from the use of Project Cash (the “Implementation Funds”). If the Implementation Funds are drawn from the Ritter Cash (or any other Project Cash) and used to pay settling ES Claimants all or a portion of the Settlement Payment, then the Lehman Lenders will determine the extent to which such Project Cash, which served as cash collateral for the Financing extended to a particular SunCal Plan Debtor, was used to make such Settlement Payment to another SunCal Plan Debtor’s ES Claimants. Based upon such determination, the Lehman Lenders will endeavor to agree, amongst themselves, the extent to which the Lehman Lender whose Project Cash was used to make such Settlement Payment would be reimbursed or otherwise made whole by the other Lehman Lender(s) deriving a benefit from such Settlement Payment. To the extent that the Implementation Funds are drawn from the Ritter Cash (or any other Project Cash) and used by the Lehman Lenders for other permitted uses as described in the

Proposed Plan, then under the Proposed Plan, such use will constitute a post-confirmation loan made by the Lehman Lender having a security interest in such Implementation Funds and the SunCal Plan Debtors' estates will be jointly and severally liable to such Lehman Lender for the repayment of such funds and such repayment would be made in accordance with the distribution provisions of the Proposed Plan.

34. While there is no guarantee that the Proposed Plan will be confirmed by the California Bankruptcy Court, the Proposed Plan provides a viable alternative to the Competing Plan. The only other plan that has been proposed for the SunCal Debtors is the Competing Plan, which the Lehman Lenders believe is unfairly discriminatory at the expense of the Lehman Lenders. The Competing Plan is premised on the SunCal Debtors' success in their attempts to substantively consolidate their estates and equitably subordinate the Lehman Creditors' claims to payment in full of all unsecured claims against all of the SunCal Debtors. Given that the SunCal Debtors have only an estimated \$350 million to \$600 million in assets, if the Competing Plan is confirmed and the SunCal Debtors are successful in the Equitable Subordination Action and at their attempts to substantively consolidate, the Lehman Creditors are unlikely to obtain any recovery, let alone a significant recovery, from the SunCal Plan Debtors.

35. The Lehman Lenders believe that the Competing Plan is not feasible and cannot be confirmed and intend to file an objection to the Competing Plan in the California Bankruptcy Court. Nonetheless, absent this Court's approval of LCPI's ability to propose, enter into, and consummate the transactions in the Proposed Plan, the Lehman Lenders will be forced to continue to challenge the Competing Plan without the benefit of a viable alternative plan, and

as a result, LCPI's estate faces the increased prospect of being unable benefit from the value of its liens.

36. Thus, the concessions of establishing the Security Pool for ES Claimants and making available the Settlement Payment and the Implementation Funds are far outweighed by the benefits to LCPI of potentially obtaining a recovery from the applicable SunCal Plan Debtors through the Proposed Sale. Accordingly, in light of the undeniable benefits of the Proposed Plan to LCPI's estate and its reorganization, LCPI clearly has exercised sound business judgment, and an order authorizing LCPI to consummate the transactions set forth in the Proposed Plan.

#### **Relief Under Bankruptcy Rule 6004(h)**

37. Bankruptcy Rule 6004(h) provides that an "order authorizing the use, sale, or lease of property . . . is stayed until the expiration of 10 days after entry of the order, unless the court orders otherwise." FED. R. BANKR. P. 6004(h). Because the hearing to consider the approval of the Disclosure Statement is scheduled to be heard by the Disclosure Statement on October 15, 2009, LCPI respectfully requests that any order approving this Motion be effective immediately by providing that the 10-day stay is inapplicable.

#### **Notice**

38. No trustee has been appointed in these chapter 11 cases. LCPI has served notice of this Motion in accordance with the procedures set forth in the amended order entered on February 13, 2009 governing case management and administrative procedures for these cases [Docket No. 2837] on (i) the U.S. Trustee; (ii) the attorneys for the Creditors' Committee; (iii) the Securities and Exchange Commission; (iv) the Internal Revenue Service; (v) the United States Attorney for the Southern District of New York; (vi) counsel to the SunCal Debtors; and

(vii) all parties who have requested notice in these chapter 11 cases. LCPI submits that no other or further notice need be provided.

39. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE LCPI respectfully requests that the Court grant the relief requested herein and such other and further relief as it deems just and proper.

Dated: September 16, 2009  
New York, New York

/s/ Shai Y. Waisman  
Shai Y. Waisman

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Attorneys for Debtors  
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**Exhibit A**

See Attached Proposed Plan

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Attorneys for Lehman Commercial Paper Inc., Lehman ALI,  
Inc., Northlake Holdings LLC and OVC Holdings LLC

**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SANTA ANA DIVISION**

In re:

Palmdale Hills Property, LLC, and its Related  
Debtors,

Jointly Administered Debtors  
and Debtors-In-Possession

Affects:

- ☐ All Debtors
- ☒ Palmdale Hills Property, LLC
- ☒ SunCal Beaumont Heights, LLC
- ☒ SCC/Palmdale, LLC
- ☒ SunCal Johansson Ranch, LLC
- ☒ SunCal Summit Valley, LLC
- ☒ SunCal Emerald Meadows, LLC
- ☒ SunCal Bickford Ranch, LLC
- ☒ Acton Estates, LLC
- ☒ Seven Brothers, LLC
- ☒ SJD Partners, Ltd.
- ☐ SJD Development Corp.
- ☒ Kirby Estates, LLC
- ☒ SunCal Communities I, LLC
- ☒ SCC Communities LLC
- ☐ SunCal Communities III, LLC
- ☒ North Orange Del Rio Land, LLC
- ☒ Tesoro SF, LLC
- ☒ LB/L-SunCal Oak Valley, LLC
- ☒ SunCal Heartland, LLC
- ☒ LB/L-SunCal Northlake, LLC

Case No.: 8:08-bk-17206-ES  
Chapter 11

Jointly Administered Case Nos.  
8:08-bk-17209-ES; 8:08-bk-17240-ES;  
8:08-bk-17224-ES; 8:08-bk-17242-ES;  
8:08-bk-17225-ES; 8:08-bk-17245-ES;  
8:08-bk-17227-ES; 8:08-bk-17246-ES;  
8:08-bk-17230-ES; 8:08-bk-17231-ES;  
8:08-bk-17236-ES; 8:08-bk-17248-ES;  
8:08-bk-17249-ES; 8:08-bk-17573-ES;  
8:08-bk-17574-ES; 8:08-bk-17575-ES  
8:08-bk-17404-ES; 8:08-bk-17407-ES;  
8:08-bk-17408-ES; 8:08-bk-17409-ES;  
8:08-bk-17458-ES; 8:08-bk-17465-ES;  
8:08-bk-17470-ES; 8:08-bk-17472-ES;  
and 8:08-bk-17588-ES

**JOINT CHAPTER 11 PLAN  
PROPOSED BY LEHMAN LENDERS**

**Hearing:**

Date: October 15, 2009  
Time: 2:00 p.m.  
Place: Courtroom 5A  
411 West Fourth Street  
Santa Ana, CA 92701



- 1 ☒ SunCal Marblehead, LLC
- 2 ☒ SunCal Century City, LLC
- 3 ☒ SunCal PSV, LLC
- 4 ☒ Delta Coves Venture, LLC
- 5 ☒ SunCal Torrance Properties, LLC
- 6 ☒ SunCal Oak Knoll, LLC

## Table of Contents

		<b>Page</b>
I.	INTRODUCTION.....	1
1.1	Prefatory Statement.....	1
1.2	Plan Debtors.....	2
1.3	Plan Summary.....	2
II.	DEFINITIONS AND RULES OF INTERPRETATION.....	9
2.1	Definitions.....	9
2.2	Rules of Construction.....	44
III.	TREATMENT OF UNCLASSIFIED CLAIMS.....	45
3.1	Treatment of Allowed Administrative Claims.....	46
3.2	Treatment of Priority Tax Claims.....	48
3.3	Treatment of Unavoided Liens Securing Claims That Are Not Allowed.....	48
IV.	CLASSIFICATION OF CLAIMS AND INTERESTS.....	49
V.	TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS.....	65
5.1	Treatment of Allowed Secured Real Property Tax Claims (Classes 1.1 through 1.20)....	66
5.2	Treatment of Lehman Secured Claims (Classes 2.1 through 2.19).....	67
5.3	Treatment of Allowed Danske Secured Claim (Class 3).....	70
5.4	Treatment of Allowed Other Secured Claims (Classes 4.1 Through 4.15).....	71
5.5	Treatment of Allowed Secured Mechanic's Lien Claims Against the Plan Debtors (Classes 5.1 through 5.54).....	72
5.6	Treatment of Allowed Priority Claims (Classes 6.1 Through 6.4).....	74
5.7	Treatment of Allowed General Unsecured Claims (Classes 7.1 Through 7.24).....	74
5.8	Treatment of Allowed ES Claims (Classes 8.1 through 8.19).....	75
5.9	Treatment of Allowed Interests (Classes 9.1 through 9.24).....	76
VI.	ACCEPTANCE OR REJECTION OF THE PLAN.....	76
6.1	Introduction.....	76
6.2	Who May Object to Confirmation of the Lehman Plan.....	76
6.3	Who May Vote to Accept/Reject the Lehman Plan and Special Provisions for Listed Holders of Mechanic's Lien Claims.....	77
6.4	What Is an Allowed Claim/Interest.....	77
6.5	What Is an Impaired Class.....	77
6.6	Who Is Not Entitled to Vote.....	77
6.7	Who Can Vote in More than One Class.....	78
6.8	Votes Necessary for a Class to Accept the Lehman Plan.....	78
6.9	Treatment of Nonaccepting Classes.....	78
6.10	Request for Confirmation Despite Nonacceptance by Impaired Class(es).....	79
VII.	MEANS OF EXECUTION AND IMPLEMENTATION OF THE PLAN.....	79
7.1	Introduction.....	79
7.2	The Liquidating Trustee.....	80
7.3	Vesting of Assets in Plan Debtors' Estates Managed by Liquidating Trustee.....	81
7.4	The Committee(s).....	81
7.5	Lehman Post-Confirmation Loans.....	81
7.6	Plan Reserve and Post-Confirmation Accounts.....	85
7.7	Disposition of Assets.....	86
7.8	Disposition of the Remaining Real Estate Projects.....	86
7.9	Equitable Subordination Claims.....	101
7.10	Post-Confirmation Expenses, Intercompany Loans and Payables and Priorities in Payment.....	107
7.11	Plan Release.....	112
7.12	Entry of Final Decrees.....	113
7.13	Dissolution of Committees and Discharge of Trustee and Liquidating Trustee.....	114
VIII.	DISTRIBUTIONS.....	114
8.1	Distribution Agent.....	114

1	8.2	Distributions.....	114
	8.3	Old Instruments and Securities.....	115
2	8.4	De Minimis Distributions and Fractional Shares.....	115
	8.5	Delivery of Distributions.....	115
3	8.6	Unclaimed Property.....	116
	8.7	Disposition of Unclaimed Property.....	116
4	IX.	OBJECTIONS TO CLAIMS AND DISPUTED CLAIMS.....	117
	9.1	Standing for Objections to Claims.....	117
5	9.2	Treatment of Disputed Claims.....	117
	X.	EXECUTORY CONTRACTS AND UNEXPIRED LEASES.....	118
6	10.1	Executory Contracts Being Assumed.....	118
	10.2	Executory Contracts Being Rejected.....	119
7	10.3	Retention of Property Rights by Lehman Nominees or Liquidating Trustee.....	119
	10.4	Bar Date for Rejection Damages.....	119
8	10.5	Cure Statements.....	120
	10.6	Changes in Rates Subject to Regulatory Commission Approval.....	120
9	XI.	EFFECT OF CONFIRMATION OF THE PLAN.....	120
	XII.	LIMITATION OF LIABILITY.....	121
10	12.1	No Liability for Solicitation or Participation.....	121
	12.2	Limitation of Liability.....	122
11	XIII.	CONDITIONS TO CONFIRMATION AND EFFECTIVENESS OF THE PLAN.....	122
	13.1	Conditions Precedent to Plan Confirmation.....	122
12	13.2	Conditions Precedent to Plan Effectiveness.....	123
	XIV.	RETENTION OF JURISDICTION.....	123
13	XV.	MODIFICATION OR WITHDRAWAL OF PLAN.....	123
	15.1	Modification of Plan.....	123
14	15.2	Nonconsensual Confirmation.....	123
	XVI.	MISCELLANEOUS.....	124
15	16.1	Payment of Statutory Fees.....	124
	16.2	Payment Dates.....	124
16	16.3	Headings.....	124
	16.4	Other Documents and Actions.....	124
17	16.5	Notices.....	125
	16.6	Governing Law.....	125
18	16.7	Binding Effect.....	125
	16.8	Successors and Assigns.....	126
19	16.9	Severability of Plan Provisions.....	126
	16.10	No Waiver.....	126
20	16.11	Inconsistencies.....	126
	16.12	Exemption from Certain Transfer Taxes and Recording Fees.....	126
21	16.13	Post-Confirmation Status Report.....	127
	16.14	Post-Confirmation Conversion/Dismissal.....	127
22	16.15	Final Decree.....	128

I.

**INTRODUCTION**

**1.1 Prefatory Statement.** This *Joint Chapter 11 Plan Proposed by Lehman Lenders* (the “Plan” or “Lehman Plan”)<sup>1</sup> is Filed by the Lehman Lenders.

The Plan essentially is a blueprint of how the Plan Debtors will be structured or liquidated after or as a result of bankruptcy – whether they will survive, the forms of entities they will be, who will own them, and what distributions will be made or required. Among other things, the Lehman Plan designates classes of Claims and classes of Interests, identifies unimpaired and impaired Classes, sets forth a proposal for the satisfaction of all Claims against, and Interests in, the Plan Debtors, and provides adequate means for the implementation of the Lehman Plan. With the Lehman Plan, Holders of Claims and Interests entitled to vote on the Lehman Plan will receive a Ballot for voting on the Lehman Plan and, for Holders of Allowed ES Claims, for voting on whether the Liquidating Trustee should accept or reject, on behalf of and for the benefit of the ES Claimants, the proposed settlement of the Equitable Subordination Claims made in an ES Action against one or more Lehman Related Parties (the “ES Settlement Offer”).

A separate document, entitled *Disclosure Statement With Respect to Joint Chapter 11 Plan Proposed By Lehman Lenders* (the “Lehman Disclosure Statement”), is being sent as an accompaniment to the Lehman Plan, which may be included in the same envelope as this document or under separate cover. The Lehman Disclosure Statement is intended to provide Creditors with information sufficient to enable Creditors to vote on the Lehman Plan and has been approved by the Bankruptcy Court as containing sufficient information for that purpose. The Lehman Disclosure Statement includes a summary of the Plan Debtors’ assets and liabilities, a summary of what Holders of Claims and Interests will receive under the Lehman Plan, a discussion of certain alternatives to the Lehman Plan, and a summary of the procedures and voting requirements necessary for confirmation of the Lehman Plan. Creditors should thoroughly review both the Lehman Plan and Lehman Disclosure Statement before deciding whether Creditors will accept or reject the Lehman Plan (and, if a Creditor is an ES Claimant, whether the Creditor votes for

---

<sup>1</sup> All capitalized terms have the meanings set forth in Article II of the Lehman Plan.

1 acceptance or rejection of the ES Settlement Offer by the Liquidating Trustee on behalf of the  
2 Estate of the ES Plan Debtor against which the Creditor asserts its Allowed ES Claim). No  
3 solicitation materials, other than the Lehman Disclosure Statement and related materials transmitted  
4 therewith and approved for solicitation purposes by the Bankruptcy Court, have been authorized for  
5 use in soliciting acceptances or rejections of the Lehman Plan.

6 **1.2 Plan Debtors.** The Lehman Plan applies to 24 of the 26 Debtors, being all of the  
7 Debtors other than SJD Development and SunCal III (the Estates of which are believed to hold no  
8 Assets of any significant current or potential value).

9 **1.3 Plan Summary.** The summary of the Lehman Plan that follows in this Section 1.3  
10 of the Lehman Plan is not intended to substitute for the Lehman Disclosure Statement or for the  
11 more specific terms set forth in the Lehman Plan other than in this Section 1.3 of the Lehman Plan.  
12 If there are any discrepancies between the summary provided in this Section 1.3 of the Lehman  
13 Plan and the other provisions of the Lehman Plan, the other provisions shall control. Additionally,  
14 the Cases of the Plan Debtors have been jointly administered, but not substantively consolidated.  
15 Accordingly, the Lehman Plan provides separate treatment for Holders of Claims and Interests  
16 against each Plan Debtor. The following is a general outline of the Lehman Plan.

17 **1.3.1 Generally.** The Lehman Creditors are owed, collectively, approximately  
18 \$1.9 billion secured by deeds of trust on certain of the Remaining Real Estate Projects, certain Cash  
19 Collateral and other Assets of the Debtors' Estates. The Debtors have challenged the Lehman  
20 Creditors' Secured Claims, contending that (a) certain of the Lehman Creditors' Liens on the  
21 Assets of particular Debtors who are obligors under certain Lehman Loans are subject to being set  
22 aside because, among other things, other affiliated Debtors, rather than the obligor Debtors,  
23 received the benefit of such Lehman Loans (the Cross-Collateralization Claims), and (b) the Claims  
24 of the Lehman Creditors should be subordinated to the Claims of certain other Creditors allegedly  
25 harmed by the conduct of the Lehman Lenders (the Equitable Subordination Claims). The Lehman  
26 Lenders do not concur with these conclusions of the Debtors or with many of the factual  
27 contentions asserted as supporting or providing a basis for the Cross-Collateralization Claims  
28 and/or Equitable Subordination Claims.

Nonetheless, to enable the Debtors to emerge from bankruptcy, which the Lehman Lenders believe is in the interest of all Creditors, with a Plan that is fair to all constituencies and best preserves current values and prevents further deterioration in the values of the Assets of the Debtors, the Lehman Proponents have proposed the Lehman Plan through which they: (a) make available funds for ES Pro Rata Settlement Payments to settle the ES Claims of Settling ES Claimants; (b) propose, through the Lehman Plan Sale or Foreclosure Procedures, auctions of the Remaining Real Estate Projects at which third parties may bid for the Remaining Real Estate Projects and at which the Lehman Creditors and other Holders of Allowed Secured Claims may credit bid; (c) provide for the means of liquidation of the Remaining Other Assets and the distribution of Residual Cash for Holders of Allowed Claims; and (d) protect those ES Claimants who elect not to have the Estates settle their ES Claims by (i) making available the ES Litigation Loan to enable continued prosecution of the Equitable Subordination Claims in an ES Action, (ii) granting certain specific concessions, described below, that could facilitate the entry and collection of an ES Judgment, and (iii) providing security for satisfaction of a Project Related Action Recovery.

**1.3.2 Liquidating Trustee.** A Liquidating Trustee shall be appointed to oversee the realization of values from the Remaining Real Estate Projects and the Remaining Other Assets for the benefit of the Creditors of the Plan Debtors. The values of the Remaining Real Estate Projects and Remaining Other Assets (net of Post-Confirmation Expenses) shall be distributed to the respective Creditors of the applicable Plan Debtors in accordance with the strict priority rules of the Bankruptcy Code, applied on a Plan Debtor-by-Plan Debtor basis, except as otherwise provided in the Lehman Plan and described below. No Assets from the Estates of the Plan Debtors created under law upon the commencement of the Plan Debtors' Cases will be left with the Plan Debtors on the Effective Date; instead, such Assets will remain vested in the Plan Debtors' Estates to be administered by the Liquidating Trustee, although the Liquidating Trustee could elect hereafter to abandon to the Plan Debtors Assets of inconsequential value to the extent permitted in the Lehman Plan.

1                   **1.3.3      Disposition of the Remaining Real Estate Projects.** Within sixty (60)

2 days after the Effective Date, the Liquidating Trustee shall sell or convey each of the Remaining  
3 Real Estate Projects for which the Successful Bidder is a third party purchaser, a Lehman Creditor  
4 or another Holder of an Allowed Secured Claim, all pursuant to the Lehman Plan Sale or  
5 Foreclosure Procedures set forth herein below. An auction for the sale of each Remaining Real  
6 Estate Project will occur promptly after the Effective Date (but no later than sixty (60) days after  
7 the Effective Date) at which third party prospective purchasers, the Lehman Creditors and other  
8 Holders of Secured Claims may bid on any or all of the Remaining Real Estate Projects. Lehman  
9 Creditors will make opening credit bids as set forth in Section 7.7.2(a) of the Lehman Plan for most  
10 of those Remaining Real Estate Projects and may elect to make a bid on any other Remaining Real  
11 Estate Project. Under the Lehman Plan, the Lehman Creditors are afforded the ability to credit bid  
12 up to the amount of their Claims as specified herein below in Article IV of the Lehman Plan on a  
13 Project-by-Project basis; provided, however, that each of the Remaining Real Estate Projects  
14 conveyed to a Lehman Nominee shall become subject to a PRA Recovery Deed of Trust for the  
15 protection of the applicable Estate and its Creditors as and to the extent set forth in the Lehman  
16 Plan.

17                   **1.3.4      PRA Recovery Security Pool.** The Lehman Lenders dispute or may

18 dispute all or substantially all of the Equitable Subordination Claims and the Cross-  
19 Collateralization Claims. If, however, some recovery were afforded to the Liquidating Trustee for  
20 the Estates in respect of the Equitable Subordination Claims in an ES Action or the Cross-  
21 Collateralization Claims in a Cross-Collateralization Action (*i.e.*, a Project Related Action  
22 Recovery), the values of the Remaining Real Estate Projects on which Lehman Creditors hold  
23 Secured Claims and on which Lehman Creditors are bidding arguably would be available to satisfy  
24 the Project Related Action Recovery. Thus, to secure the satisfaction of a Project Related Action  
25 Recovery and thereby protect the Estates of the Plan Debtors and their Creditors (a) the Lehman  
26 Plan provides that certain Cash is to be held by the Liquidating Trustee in the Plan Reserve and (b)  
27 any Remaining Real Estate Project which is conveyed to a Lehman Nominee pursuant to the  
28 Lehman Plan Sale or Foreclosure Procedures shall be subject to a deed of trust in favor of the

1 Liquidating Trustee (as defined below, the “PRA Recovery Deeds of Trust”) to secure the  
2 obligation of such Lehman Nominee to reconvey the Project acquired by such Lehman Nominee in  
3 the event of a Project Related Action Recovery, which obligation is to be set forth in a  
4 Reconveyance Agreement, and, which reconveyance obligation may, at the Lehman Nominee’s  
5 election, instead be satisfied by a Cash payment in the amount of any Project Related Action  
6 Recovery. The Plan Reserve and PRA Recovery Deeds of Trust are referred to herein collectively  
7 as the “PRA Recovery Security Pool.”

8 **1.3.5 Release of PRA Recovery Deeds of Trust.** Although the PRA Recovery  
9 Deeds of Trust generally shall remain in effect pending the final settlement or determination of the  
10 Project Related Actions, as provided herein, in order to permit the Lehman Nominees holding title  
11 to the Remaining Real Estate Projects (*i.e.*, the PRA Security Projects) to fully utilize such  
12 properties, the Lehman Plan also includes provisions by which (i) all of the PRA Recovery Deeds  
13 of Trust shall be released and all Reconveyance Agreements terminated upon there having been  
14 deposited Cash into the Plan Reserve equal to the Maximum PRA Recovery Amount, and (ii) the  
15 PRA Recovery Deed of Trust encumbering a particular PRA Security Project shall be: (1) released  
16 and the corresponding Reconveyance Agreement terminated upon the sale of such PRA Security  
17 Project to a third party and the deposit of any Net Cash Proceeds resulting from such sale into the  
18 Plan Reserve and/or the provision of a substitute Lien on any non-Cash Net Proceeds resulting from  
19 such sale or (2) subordinated to the Lien of a new mortgage loan upon a refinancing of the  
20 particular PRA Security Project obtained by the applicable Lehman Nominee in its sole and  
21 absolute discretion, provided that all Net Cash Proceeds derived from such refinancing are  
22 deposited into the Plan Reserve.

23 **1.3.6 Net Proceeds from Sales to Third Party Purchasers of Remaining**  
24 **Real Estate Projects Subject to Lehman Secured Claim.** The Net Cash Proceeds from the sale  
25 of any Remaining Real Estate Project that is subject to a Secured Claim of a Lehman Creditor and  
26 is sold to a third party purchaser, rather than conveyed to a Lehman Nominee, shall be deposited  
27 into the Plan Reserve, subject to certain limited uses as described in the Lehman Plan, and the  
28



1 applicable Lehman Related Party(ies) shall be afforded a substitute Lien on any non-Cash Net  
2 Proceeds, in each case pending final settlement or determination of the Project Related Actions.

3 **1.3.7 The Remaining Other Assets.** The Remaining Other Assets (other than  
4 Cash) shall be liquidated by the Liquidating Trustee and the Net Cash Proceeds therefrom shall be  
5 available for payment of Claims and Creditors, as set forth in the Lehman Plan.

6 **1.3.8 Equitable Subordination Claims.**

7 (a) **Generally.** Under the Lehman Plan, ES Claimants are afforded the  
8 option to either accept the benefits of the ES Settlement, as provided in the Lehman Plan, or have  
9 the Liquidating Trustee continue prosecution of the Equitable Subordination Claims for their  
10 potential benefit. To incentivize ES Claimants to accept the Lehman Plan even if they do not  
11 accept the ES Settlement Offer, the Lehman Lenders are making available, as set forth in the  
12 Lehman Plan, funding for such continued prosecution of the Equitable Subordination Claims.

13 (b) **ES Settlement Offer.**

14 (i) **Funding for ES Settlement Offer.** The Lehman Lenders are  
15 making available funds for the ES Settlement Pro Rata Payments to Settling ES Claimants.

16 (ii) **Settlement by an Individual ES Claimant.** For each ES  
17 Claimant who votes for acceptance of the ES Settlement Offer on its Ballot and returns with the  
18 Ballot an ES Claimant Release and Assignment (included with the Ballot) duly executed by such  
19 ES Claimant, such ES Claimant will receive an ES Pro Rata Settlement Payment (*e.g.*, its relative  
20 share of the aggregate amount of the ES Settlement Amount).

21 (iii) **Full Settlement by An Estate.** If at least one-half in number  
22 and two-thirds in amount of the voting ES Claimants in any of the Estates of the Plan Debtors vote  
23 for acceptance of the ES Settlement Offer on their Ballots and return with their Ballots duly  
24 executed ES Claimant Release and Assignments (with respect to such Estate, the “Estate  
25 Acceptance of the ES Settlement”), all ES Claimants of such Estate will be entitled to receive an  
26 ES Pro Rata Settlement Payment upon return with their Ballots or to the Lehman Lenders of a duly  
27 executed ES Claimant Release and Assignment. If there is Estate Acceptance of the ES Settlement  
28 for an Estate of a particular Plan Debtor, the Equitable Subordination Claims of such Estate will be

1 fully settled, dismissed (with prejudice) and released, including as to ES Claimants who do not vote  
2 to accept the ES Settlement Offer, who vote to reject the ES Settlement Offer or who vote to accept  
3 the Settlement Offer but who fail to execute and deliver the ES Claimant Release and Assignment.

4 (iv) **Releases and Assignments.** In exchange for the  
5 consideration payable to each Settling ES Claimant: (A) the Liquidating Trustee will issue for or  
6 on behalf of each relevant Estate a release of all claims against the Lehman Releasees and all and  
7 any owners of the applicable Project(s) (that were at any time owned by the Plan Debtor of the  
8 releasing Estate), including the Lehman Nominees, which owners are or were successors or assigns  
9 of the applicable Debtor, as to, or to the extent attributable to, or to the extent any recovery would  
10 be payable with respect to, any or all of the ES Claims of the Settling ES Claimants (the “Estate ES  
11 Settlement Release” as more fully set forth and defined herein); and (B) in returning its Ballot  
12 accepting the ES Settlement Offer, each Settling ES Claimant by Vote also, itself, will be granting a  
13 release of all claims against the Lehman Releasees and all and any owners of the applicable  
14 Project(s) (that were at any time owned by the Plan Debtor against which the applicable Allowed  
15 ES Claim is asserted), including the Lehman Nominees, which owners are or were successors or  
16 assigns of the applicable Debtor, as to, or to the extent attributable to, or to the extent any recovery  
17 is payable with respect to, any or all of the ES Claims of such Settling ES Claimant (the “ES  
18 Claimant Release and Assignment” as more fully set forth and defined herein).

19 (c) **Continued Prosecution of Equitable Subordination Claims.**  
20 Unless all of the Estates of the ES Plan Debtors accept the ES Settlement Offer (through the  
21 acceptance of the ES Settlement Offer by at least one-half in number and two-thirds in amount of  
22 the voting ES Claimants of each such ES Plan Debtor’s Estate), resulting in a dismissal (with  
23 prejudice), release and settlement of all Equitable Subordination Claims of all ES Plan Debtors’  
24 Estates, the Liquidating Trustee may continue prosecution of the Equitable Subordination Claims in  
25 an ES Action seeking any alleged damages, subordination or other remedies that may be available  
26 for the benefit of, and attributable to, the ES Claims of any Non-Settling ES Claimants, as  
27 determined by the court with jurisdiction over such actions; provided, that the PRA Recovery  
28 Security Pool will be the sole source for recovery on an ES Judgment, unless a Lehman Lender

elects to pay Cash in lieu thereof. **ES Litigation Loan.** Unless all of the ES Plan Debtors' Estates accept the ES Settlement Offer (through the acceptance of the ES Settlement Offer by at least one-half in number and two-thirds in amount of the voting ES Claimants of each such ES Plan Debtor's Estate), a Lehman Lender will make available a loan in the aggregate principal amount of up to \$1 million to the Liquidating Trustee for the Estates of those ES Plan Debtors for which the Liquidating Trustee continues to prosecute Equitable Subordination Claims, which loan may be used solely for the payment of ES Litigation Expenses (as more fully defined below, the "ES Litigation Loan").

(ii) **Concessions by Lehman Lenders to Facilitate Collection of ES Judgments.** Although the Lehman Lenders believe they will defeat any Equitable Subordination Claims in an ES Action, to further incentivize support of all ES Claimants for the Lehman Plan, including Non-Settling ES Claimants, the Lehman Lenders, solely in connection with and for confirmation and the effectiveness of the Lehman Plan, agree to the following in connection with entry of an ES Judgment subordinating the Lehman Secured Claims to the ES Claims, if any such judgment is entered:

**A. Excess Values Otherwise Available to Pay the Lehman Creditors from Certain ES Plan Debtors' Projects Are to be Collateral for Equitable Subordination Claims that Benefit ES Claimants of Other ES Plan Debtors.**

For some particular ES Plan Debtors' Estates, the Net Cash Proceeds from the sale of their PRA Security Projects or other Assets likely would be insufficient to pay the Allowed ES Claims against those Estates and, for other particular ES Plan Debtors' Estates, such Net Cash Proceeds likely would exceed the Allowed ES Claims against their Estates. Instead of any such excess Net Cash Proceeds being available next to the Lehman Creditors, as Holders of Secured Claims or subordinated Secured Claims against those Estates, the Lehman Creditors, to their own detriment, have agreed, by virtue of permitting the PRA Security Pool to secure all ES Judgments, to voluntarily subordinate their remaining Secured Claims in any such excess values in the PRA Security Projects to any unpaid portion of an ES Judgment as to other ES Plan Debtors' Estates.

**B. To Obtain the ES Judgment in the First Instance for Del Rio and SJD Partners, No Showing Will be Required that the Subject Estates Had Enough Value In Them to Pay their ES Claims Without Regard to Any**

**Lehman Secured Claim.** As to the Estates of Del Rio and SJD Partners only, the Lehman Creditors will waive an objection or defense, that, even were the applicable Lehman Secured Claim ignored, there was insufficient value in those Estates to pay their Allowed ES Claims, provided that (I) all other grounds necessary to obtain an ES Judgment have been satisfied, and (II) the applicable Estate executes the Del Rio / SJD Partners Release within forty-five (45) days following the Effective Date.

**1.3.9 Plan Funding by Lehman Lenders.** The Lehman Lenders will make substantial funding available to enable the confirmation and implementation of the Lehman Plan, including payment of certain Administrative Claims, Project related expenses, certain Post-Confirmation Expenses and certain settlement amounts. Such funding will be provided either (i) through new transfers of Cash by a Lehman Lender, or (ii) by the Lehman Lenders foregoing the full extent of adequate protection to which Lehman Creditors otherwise would claim entitlement with respect to their substantial Cash Collateral being held in escrow or held by the Estates, and instead permitting use of such Cash Collateral, as and to the extent set forth more fully herein below.

**II.**

**DEFINITIONS AND RULES OF INTERPRETATION**

**2.1 Definitions.** The following defined terms are used in the Lehman Plan. Any capitalized term that is not defined herein, but is defined in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules.

**2.1.1 10000 Santa Monica Project.** The Project owned by SunCal Century City, located in Century City, California.

**2.1.2 Acquisitions.** SCC Acquisitions, Inc., a California corporation, and the Debtors' indirect parent, but not a Debtor in any of the Cases.

1                   **2.1.3     Acton Estates.** Acton Estates, LLC, a Delaware limited liability, a  
2 Voluntary Debtor herein, and the owner of the Acton Project.

3                   **2.1.4     Acton Project.** The Project owned by Acton Estates, located in Los  
4 Angeles County, California, as more particularly described herein.

5                   **2.1.5     Administrative Claim(s).** Any Claim against a Plan Debtor incurred  
6 after the applicable Petition Date for such Plan Debtor but before the Confirmation Date for any  
7 cost or expense of administration of the Cases of the Plan Debtors entitled to priority under Section  
8 507(a)(2) or (3) of the Bankruptcy Code, including, without limitation, any fees or charges assessed  
9 against the Estates of the Plan Debtors under Section 1930 of Title 28 of the United States Code.

10                  **2.1.6     Administrative Claim Bar Date.** The General Administrative Claim Bar  
11 Date and the Administrative Tax Claim Bar Date.

12                  **2.1.7     Administrative Tax Claim(s).** A request for payment of an  
13 Administrative Claim by a governmental unit for Taxes (or for interest or penalties related to such  
14 Taxes) for any tax year or period, all or any portion of which occurs or falls within the period from  
15 and including the applicable Petition Date through and including the Effective Date.

16                  **2.1.8     Administrative Tax Claim Bar Date.** The earlier of (a) any bar date  
17 otherwise established by the Bankruptcy Court or (b) on or before the later of (i) sixty (60) days  
18 following the Effective Date; and (ii) 180 days following the filing of the tax return for such taxes  
19 for such tax year or period with the applicable governmental unit.

20                  **2.1.9     Affiliate.** As to any Person, any other Person that directly or indirectly  
21 owns or controls, is owned or controlled by, or is under common ownership or control with, such  
22 Person. The term "control" (including, with correlative meanings, the terms "controlled by" and  
23 "under common control with"), as applied to any Person, means the possession, direct or indirect,  
24 of the power to direct or cause the direction of the management and policies of such Person,  
25 whether through the ownership of voting securities or other equity ownership interest, by contract  
26 or otherwise; provided that as to any Lehman Related Party, the term "Affiliate" does not include  
27 any Debtor.  
28

1                   **2.1.10    Allowed.** This term is used both separately and in conjunction with other  
2 defined terms herein (*e.g.*, Allowed Tax Claims) and means:

3                   a.       with respect to any Administrative Claim (a) if the Claim is based  
4 upon a Fee Application, an unsecured Claim in the amount of such Fee Application that has been  
5 approved by a Final Order of the Bankruptcy Court; (b) if the Claim is based upon any  
6 indebtedness or obligation incurred in the ordinary course of business of the Plan Debtors and is not  
7 otherwise subject to an Administrative Claim Bar Date, in the amount of such Claim and with a  
8 status as secured or unsecured as each are asserted by such creditor and not disputed by the  
9 Liquidating Trustee or the Lehman Lenders, failing which, the amount and secured or unsecured  
10 status thereof as fixed by a Final Order of the Bankruptcy Court; or (c) if the Holder of such Claim  
11 was required to File and has Filed proof thereof with the Bankruptcy Court prior to an  
12 Administrative Claim Bar Date, (l) in the amount and with the status as secured or unsecured and in  
13 the statutory priority as stated in such proof of Administrative Claim if no objection to such proof  
14 of Administrative Claim is interposed within the applicable period of time, if any, fixed by the  
15 Bankruptcy Code, the Bankruptcy Rules, the Bankruptcy Court or the Lehman Plan, or (2) in the  
16 amount and with the status as secured or unsecured and in the statutory priority as fixed by Final  
17 Order of the Bankruptcy Court if an objection to such proof was interposed within any applicable  
18 period of time so fixed; and

19                   b.       with respect to any Claim which is not an Administrative Claim, (a) if  
20 no objection to such Claim was interposed by the Claims Objection Deadline, (1) if the Holder of  
21 such other Claim did not File proof thereof with the Bankruptcy Court on or before the Claims Bar  
22 Date, in the amount of such Claim and with the status as secured or unsecured and with the  
23 statutory priority as listed in the Plan Debtors' Schedules if listed as neither disputed, contingent or  
24 unliquidated and (2) if the Holder of such Claim has Filed a Proof of Claim therefor with the  
25 Bankruptcy Court on or before the Claims Bar Date, in the amount and with the status as secured or  
26 unsecured and in the statutory priority as stated in such Proofs of Claim, or (b) if an objection to  
27 such Claim was interposed by the Claims Objection Deadline, in the amount and with the status as  
28

1 secured or unsecured and in the statutory priority thereof as fixed by Final Order of the Bankruptcy  
2 Court;

3 c. with respect to a Claim's status as an ES Claim, (a) with ES Claim  
4 status if ES Claim status is alleged on the Holder's Ballot in the manner provided therefor and if no  
5 objection thereto is interposed by the Claims Objection Deadline, (b) with ES Claim status if  
6 alleged by the Liquidating Trustee and either (1) the Lehman Creditors and any surviving  
7 Committee consent or (2) no objection thereto is Filed by the later of the Claims Objection  
8 Deadline or seventy-five (75) days after notice thereof to any surviving Committees and the  
9 Lehman Creditors or (c) as fixed by Final Order of the Bankruptcy Court; and

10 d. with respect to any Interest, (a) if no objection to such Interest was  
11 interposed within the applicable period of time fixed by the Bankruptcy Code, the Bankruptcy  
12 Rules, the Lehman Plan or the Bankruptcy Court, (1) if the Holder of such Interest did not File  
13 proof thereof with the Bankruptcy Court within the applicable period of time fixed by the  
14 Bankruptcy Code, the Bankruptcy Rules, the Lehman Plan or the Bankruptcy Court, in the number,  
15 amount or percentage of such Interest and with the nature thereof as listed in the Plan Debtors'  
16 Schedules if listed as neither disputed, contingent or unliquidated and (2) if the Holder of such  
17 Interest has Filed a Proof of Interest therefor with the Bankruptcy Court within the applicable  
18 period of time fixed by the Bankruptcy Code, the Bankruptcy Rules, the Lehman Plan or the  
19 Bankruptcy Court, in the number, amount or percentage of such Interest and with the nature thereof  
20 as stated in such Proof of Interest, or (b) if an objection to such proof was interposed within the  
21 applicable period of time fixed by the Bankruptcy Code, the Bankruptcy Rules, the Lehman Plan or  
22 the Bankruptcy Court, in the number, amount or percentage of such Interest and nature thereof as  
23 fixed by Final Order of the Bankruptcy Court; but

24 e. with respect to any Administrative Claim, Claim or Interest, the term  
25 "Allowed" does not signify whether or not such Administrative Claim, Claim or Interest has been  
26 subordinated to another Administrative Claim, Claim or Interest or is entitled to the benefits of such  
27 subordination.

28 **2.1.11 Allowed Amount.** The amount in which a Claim or Interest is Allowed.

1                   **2.1.12    Arch.** Arch Insurance Company, a Bond Issuer.

2                   **2.1.13    Assets.** All assets that are property of the Debtor(s) pursuant to  
3 Bankruptcy Code Section 541.

4                   **2.1.14    Available Cash.** Cash held by each Plan Debtor as of the Effective Date  
5 other than Cash Collateral.

6                   **2.1.15    Avoidance Actions.** All Claims and defenses to Claims accruing to the  
7 Plan Debtors and their Estates under Bankruptcy Code Sections 506(d), 510(c), 541, 544, 545, 547,  
8 548, 549, 550, or 551.

9                   **2.1.16    Ballot.** The ballot to vote to accept or reject the Lehman Plan and to vote  
10 for acceptance or rejection of the ES Settlement Offer.

11                   **2.1.17    Bankruptcy Code.** The Bankruptcy Reform Act of 1978, as amended, as  
12 set forth in Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq., as applicable to the Cases.

13                   **2.1.18    Bankruptcy Court.** The United States Bankruptcy Court for the Central  
14 District of California, having jurisdiction over the Cases and, to the extent of any withdrawal of the  
15 reference made pursuant to Section 157 of Title 28 of the United States Code, the United States  
16 District Court for the Central District of California; or, in the event such courts cease to exercise  
17 jurisdiction over the Cases, such court or unit thereof that exercises jurisdiction over the Cases in  
18 lieu thereof.

19                   **2.1.19    Bankruptcy Rules.** Collectively, as now in effect or hereafter amended  
20 and as applicable to the Cases, (i) the Federal Rules of Bankruptcy Procedure, and (ii) the Local  
21 Bankruptcy Rules and General Orders applicable to cases pending before the Bankruptcy Court.

22                   **2.1.20    Beaumont Heights Project.** The Project owned by SunCal Beaumont,  
23 located in the City of Beaumont, California, as more particularly described herein.

24                   **2.1.21    Bickford Ranch Project.** The Project owned by SunCal Bickford,  
25 located in the City of Penryn, California, as more particularly described herein.

26                   **2.1.22    Bickford Second Lien Loan Agreement.** That certain promissory note,  
27 dated as of May 25, 2005, in the maximum aggregate principal amount of approximately  
28 \$30,000,000, made by SunCal Bickford, as borrower, and payable to the order of Lehman ALI, as



lender. The loan made pursuant to and/or evidenced by the Bickford Second Lien Loan Agreement is secured by a second priority deed of trust on the Bickford Ranch Project. The outstanding balance of the loan under the Bickford Second Loan Agreement was not less than \$54,494,059.38 as of the applicable Petition Date.

**2.1.23 Bond Claim(s).** Any Claim against the Debtor(s) and a Bond Issuer under various payment or performance bonds issued by a Bond Issuer.

**2.1.24 Bond Claimant.** Holder(s) of a Bond Claim.

**2.1.25 Bond Issuer(s).** Bond Safeguard and Arch in their capacities as issuers and sureties for payment and performance bonds for the benefit of certain of the Debtors and with respect to and for the benefit of the Projects owned by such Debtors.

**2.1.26 Bond Obligation(s).** The alleged obligation(s) of the Bond Obligor(s) to indemnify the Bond Issuers for any payments made by the Bond Issuers to Holders of Bond Claims.

**2.1.27 Bond Obligor(s).** Obligors who are liable to a Bond Issuer for any payments made by such Bond Issuer to a Bond Claimant or for performance obligations under any performance bonds issued by such Bond Issuer for the benefit of any of the Debtors or their respective Projects. Arch asserts that the Bond Obligors under payment and performance bonds issued by Arch for the benefit of any Debtor or with respect to any Project are all of the Debtors, Acquisitions and Elieff. Bond Safeguard asserts that the Bond Obligors under payment and performance bonds issued by Bond Safeguard for the benefit of any Debtor or with respect to any Project are the respective Debtors for whose benefit such bonds were issued, Acquisitions and Elieff.

**2.1.28 Bond Safeguard.** Bond Safeguard Insurance Company, a Bond Issuer.

**2.1.29 Business Day.** Any day, other than a Saturday, a Sunday or a "legal holiday," as defined in Bankruptcy Rule 9006(a); provided that with reference to the date on which something is to be Filed, it shall not include a day on which the applicable court is inaccessible for the purpose of Filing such paper.

1                   **2.1.30    Cases.** The chapter 11 cases of the Debtors pending before the  
2 Bankruptcy Court.

3                   **2.1.31    Cash.** Currency of the United States of America and cash equivalents,  
4 including, but not limited to, bank deposits, immediately available or cleared checks, drafts, wire  
5 transfers and other similar forms of payment.

6                   **2.1.32    Cash Collateral.** This term is used in reference to certain Assets of a  
7 Plan Debtor's Estate with the same meaning as set forth in Bankruptcy Code Section 363(a).

8                   **2.1.33    Claim.** A claim — as Bankruptcy Code section 101(5) defines the term  
9 "claim"— against any Plan Debtor or any Plan Debtor's property, including, without limitation (a)  
10 any right to payment from any of the Plan Debtors, whether or not such right is reduced to  
11 judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed,  
12 legal, equitable, secured, or unsecured and (b) any right to an equitable remedy for breach of  
13 performance if such breach gives rise to a right of payment from any of the Plan Debtors, whether  
14 or not such right to an equitable remedy is reduced to judgment, liquidated, unliquidated, fixed,  
15 contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured.

16                   **2.1.34    Claims Bar Date.** For Claims, other than Administrative Claims, the last  
17 date for Filing proofs of Claim as was established by order or orders of the Bankruptcy Court  
18 entered prior to September 9, 2009, which date was March 31, 2009 for certain Claims.

19                   **2.1.35    Claims Objection Deadline.** For a Claim other than an Administrative  
20 Claim and except as otherwise set forth in the Lehman Plan, the first Business Day following the  
21 one hundred and twentieth (120th) day after the later of (a) the Effective Date or (b) the applicable  
22 bar date for the Claim; provided that: (a) for the ES Claims of Settling ES Claimants, instead, the  
23 first Business Day that is at least sixty (60) days after the Effective Date; (b) upon application to the  
24 Bankruptcy Court, the Liquidating Trustee or Lehman Lenders may obtain an extension of any such  
25 deadline for up to sixty (60) days for cause shown; and (c) any deadline may be extended by  
26 agreement of the potential target of the objection and the Liquidating Trustee or a Lehman Lender.

27                   **2.1.36    Class.** Each group of Claims or Interests classified in Article IV of the  
28 Lehman Plan pursuant to Sections 1122 and 1123 of the Bankruptcy Code.

1                   **2.1.37     Committees.** Collectively, the Voluntary Debtors' Committee and the  
2 Trustee Debtors' Committee.

3                   **2.1.38     Confirmation Date.** The date on which the Confirmation Order is  
4 entered in the Bankruptcy Court's docket.

5                   **2.1.39     Confirmation Order.** The order entered by the Bankruptcy Court  
6 confirming the Lehman Plan in accordance with the provisions of chapter 11 of the Bankruptcy  
7 Code.

8                   **2.1.40     Creditor.** Any Person who is the Holder of a Claim against any Debtor  
9 that arose or accrued or is deemed to have arisen or accrued or to have matured, or otherwise  
10 become due, owing, and payable on or before the applicable Debtor's Petition Date, including,  
11 without limitation, Claims of the kind specified in Sections 502(g), 502(h) or 502(i) of the  
12 Bankruptcy Code.

13                   **2.1.41     Cross-Collateralization Action.** An Avoidance Action against a  
14 Lehman Related Party that relates to a Cross-Collateralization Claim that is timely Filed and Filed  
15 no later than sixty (60) days following the Effective Date.

16                   **2.1.42     Cross-Collateralization Claim.** A Claim against any Lehman Creditor  
17 under state or federal fraudulent transfer laws, provided: (a) it is set forth in a complaint Filed no  
18 later than sixty (60) days following the Effective Date and (b) such Claim seeks to set aside a  
19 Lehman Secured Claim as against a particular Plan Debtor's Estate based on the principal amount  
20 of such Lehman Secured Claim against such Plan Debtor's Estate exceeding the funds alleged by  
21 the Debtors to have been advanced for the subject collateral or to have directly or indirectly  
22 benefitted the applicable Plan Debtor in connection with the applicable Lehman Loan.

23                   **2.1.43     Cross-Collateralization Judgment.** Any judgment in favor of the  
24 Liquidating Trustee pursuant to or as a result of a Cross-Collateralization Action against a Lehman  
25 Related Party.

26                   **2.1.44     Danske Bank.** Danske Bank A/S London Branch.

27                   **2.1.45     Danske Secured Claim.** The Secured Claim of Danske Bank, a Lehman  
28 Successor, arising from the SunCal Century City Loan Agreement.

1                   **2.1.46     Debtor(s).** Individually or collectively, the Voluntary Debtors and the  
2 Trustee Debtors.

3                   **2.1.47     Debtor(s)-in-Possession.** The Voluntary Debtor(s) when acting in their  
4 capacity as representatives of their respective Estates in their respective Cases.

5                   **2.1.48     Debtors' Second Amended Disclosure Statement.** The Debtors'  
6 Second Amended Joint Disclosure Statement Describing Debtors' Second Amended Joint Chapter  
7 11 Plan, dated June 10, 2009.

8                   **2.1.49     Del Amo Project.** The Project owned by SunCal Torrance, located in the  
9 City of Torrance, California, as more particularly described herein.

10                  **2.1.50     Del Rio.** North Orange Del Rio Land, LLC, a Delaware limited liability  
11 company, a Voluntary Debtor herein, and the owner and holder of the Del Rio Rights and the Del  
12 Rio CFD Bond Proceeds.

13                  **2.1.51     Del Rio CFD Bond Proceeds.** All proceeds of those certain bonds to be  
14 designated as "City of Orange, Community Facilities District No. 06-01 (Del Rio Public  
15 Improvements) 2007 Special Tax Bonds" or similarly designated bonds to be issued by the City of  
16 Orange, California in connection with that certain community facilities district established by the  
17 City and known as the City of Orange Community Facilities District No. 06-01 (Del Rio Public  
18 Improvements).

19                  **2.1.52     Del Rio Development Agreement.** Development Agreement, recorded  
20 on July 27, 2004 in the Official Records of Orange County, California as Instrument No. 2004-  
21 000677141, as amended by (i) that certain First Operating Memorandum, dated August 17, 2006,  
22 (ii) that certain Second Operating Memorandum, dated December 5, 2006, (iii) that certain  
23 Operating Memorandum No. 3, dated May 22, 2007, and (iv) that certain Operating Memorandum  
24 No. 4, dated July 21, 2008.

25                  **2.1.53     Del Rio PSA.** That certain Purchase Agreement and Escrow Instruction  
26 (Del Rio) dated as of June 14, 2005 by and among Del Rio, as the seller, and Lennar Homes of  
27 California and Centex Homes, as the buyers, as assigned by the buyers to Lennar Centex Del Rio  
28 Partners, LLC per that certain Assignment of Purchase Agreement and Escrow Instructions dated as

1 of November 14, 2005, as amended by that certain First Amendment to Purchase Agreement and  
2 Escrow Instructions (Del Rio) and that certain Second Amendment to Purchase Agreement and  
3 Escrow Instructions (Del Rio) dated as of January 30, 2007.

4 **2.1.54 Del Rio Rights.** Collectively, (i) all right, title and interest of Del Rio, as  
5 developer or in any other capacity, in, to, under or pursuant to the Del Rio Development Agreement  
6 including, without limitation, all any and all Del Rio CFD Bond Proceeds, and (ii) all right, title and  
7 interest of Del Rio, as seller, under the Del Rio PSA including, without limitation, all profit  
8 participation, proceeds, revenues and income to which Del Rio is or may be entitled thereunder.

9 **2.1.55 Del Rio / SJD Partners Release.** A release, in a form reasonably  
10 acceptable to the Lehman Lenders, to be executed within forty-five (45) days following the  
11 Effective Date by the Liquidating Trustee for the Estate of Del Rio or the Estate of SJD Partners to  
12 obtain certain benefits described in Section 7.8.5(b)(2) of the Lehman Plan that is in a form or  
13 substantially the form of the Plan Release set forth in Section 7.10 of the Lehman Plan, but (a)  
14 without any exception, as matters not to be released, for Cross-Collateralization Claims or  
15 Avoidance Actions and (b) with additional releasees consisting of all and any owners of the  
16 applicable Project(s) or other Assets that were at any time owned by Del Rio or SJD Partners, as  
17 applicable.

18 **2.1.56 Delta Coves.** Delta Coves Venture, LLC, a Delaware limited liability  
19 company, a Trustee Debtor herein, and the owner of the Delta Coves Project.

20 **2.1.57 Delta Coves Loan Agreement.** That certain Amended and Restated  
21 Loan Agreement, dated as of April 20, 2007, by and between Delta Coves, as borrower, and  
22 Lehman ALI, as agent and lender, pursuant to which the lenders thereunder made a loan to the  
23 borrower in the maximum aggregate principal amount of approximately \$236,000,000. The loan  
24 made pursuant to and/or evidenced by the Delta Coves Loan Agreement is secured by a first  
25 priority deed of trust on the Delta Coves Project. The outstanding balance of the loan under the  
26 Delta Coves Loan Agreement was not less than \$206,023,142.48 as of the applicable Petition Date.

27 **2.1.58 Delta Coves Project.** The Project owned by Delta Coves, located in  
28 Bethel Island in Contra Costa County, California, as more particularly described herein.

1                   **2.1.59     Detailed Sale / Foreclosure Procedures.** The detailed procedures with  
2 respect to which the Liquidating Trustee shall sell or convey each of the Remaining Real Estate  
3 Projects for which there is a Successful Bidder, either to a third party purchaser, a Lehman  
4 Nominee or another Holder of an Allowed Secured Claim, pursuant to and consistent with the  
5 Lehman Plan Sale or Foreclosure Procedures, in a form acceptable to the Lehman Creditors and  
6 Liquidating Trustee or as reasonably proposed by the Lehman Lenders and approved by the  
7 Bankruptcy Court at, or after the hearing on, confirmation of the Lehman Plan, as may be modified  
8 after the Confirmation Date by agreement of the applicable Lehman Nominee or other owner and  
9 Liquidating Trustee or approval of the Bankruptcy Court.

10                   **2.1.60     Disputed Claim(s).** All or any part of a Claim that is not Allowed,  
11 including, without limitation, all or part of a Claim as to which any one of the following applies: (i)  
12 no Proofs of Claim has been Filed with respect to such Claim and it is not deemed Allowed under  
13 the Lehman Plan, and either (a) the Claim is not listed in the Schedules or (b) the Claim is listed in  
14 the Schedules as unliquidated, disputed, contingent, unknown or in a zero amount, (ii) the liability  
15 for, amount, priority or status of the Claim as secured, status as unsecured or status as an ES Claim  
16 (a) is the subject of a pending proceeding, whether arbitration, mediation, litigation, adversary  
17 proceeding or otherwise; (b) is subject to offset based upon a Filed judgment, Filed order, Filed  
18 stipulation or express provision in an executed agreement that was Filed or executed, as  
19 appropriate, after the alleged right to offset arose; (c) is the subject of a timely objection; or (d) is  
20 the subject of a request for estimation made in accordance with the Bankruptcy Code, the  
21 Bankruptcy Rules, any applicable order of the Bankruptcy Court or the Lehman Plan, in each case  
22 that is Filed on or before the Claims Objection Deadline, provided that any such proceeding,  
23 objection, or request for estimation has not been dismissed, withdrawn or determined by a Final  
24 Order; or (iii) the Claim is otherwise treated as a "Disputed Claim" pursuant to the Lehman Plan.

25                   **2.1.61     Distribution(s).** Payment(s) to Holder(s) of an Allowed Claim(s) or  
26 Allowed Interest(s) that are provided for under the Lehman Plan.

27                   **2.1.62     Distribution Agent.** The Liquidating Trustee.  
28

1                   **2.1.63     Distribution Date.** With respect to any Allowed Claim or Allowed  
2 Interest, the date on which a Distribution is required to be made under the Lehman Plan.

3                   **2.1.64     Effective Date.** A date selected by the Lehman Lenders, but in no event  
4 later than the sixtieth (60th) day after the Confirmation Date.

5                   **2.1.65     Elieff.** Bruce Elieff, the manager of Acquisitions, the indirect parent of  
6 all of the Debtors.

7                   **2.1.66     Emerald Meadows Project.** The Project owned by SunCal Emerald,  
8 located in the City of Rubidoux, California, as more particularly described herein.

9                   **2.1.67     Encumbrance.** Any Lien (statutory or otherwise), hypothecation,  
10 encumbrance, security interest, mortgage, pledge, restriction, charge, instrument, unassumed  
11 affirmative obligations under development agreements or subdivision improvement agreements,  
12 license, preference, priority, security agreement, easement, covenant, encroachment, option or other  
13 interest in the subject Project, including any right of recovery, tax (including foreign, federal, state  
14 and local tax), Order of any governmental authority or other claim there against or therein, of any  
15 kind or nature (including (i) any conditional sale or other title retention agreement and any lease  
16 having substantially the same effect as any of the foregoing, (ii) any assignment or deposit  
17 arrangement in the nature of a security device, (iii) any claims based on any theory that the acquiror  
18 is a successor, transferee or continuation of the sellers or their business, and (iv) any leasehold  
19 interest, license or other right, in favor of a person other than the transferor in connection with a  
20 sale or conveyance, to use any portion of the subject Project), whether secured or unsecured, choate  
21 or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or  
22 unrecorded, contingent or non-contingent, material or non-material, known or unknown.

23                   **2.1.68     Equitable Subordination Claims.** Claims for equitable subordination  
24 pursuant to Bankruptcy Code § 510(c) held by an Estate for an ES Claimant against a Lehman  
25 Creditor.

26                   **2.1.69     ES Action.** (a) That certain adversary proceeding Filed in the Cases and  
27 pending before the Bankruptcy Court as Adversary Case No. 8:09-ap-01005 or (b) such other  
28

adversary proceeding in which Equitable Subordination Claims are asserted that is timely Filed and Filed no later than sixty (60) days following the Effective Date.

**2.1.70 ES Claim.** A Claim against an ES Plan Debtor for “new value” (as defined in 11 U.S.C. section 547(a)(2)) voluntarily provided or voluntarily extended to one or more of the ES Plan Debtors after the ES Date and prior to the applicable Petition Date(s); provided that such Claim is not a (i) Secured Claim, (ii) Administrative Claim, (iii) Priority Tax Claim, (iv) Priority Claim, (v) Claim of an Insider or (vi) Claim of either a Lehman Lender or Lehman Successor in such capacity. *E.g.*, ES Claims do not include Claims provided or extended pursuant to a legal or contractual commitment or obligation existing prior to the ES Date. ES Claims are entitled to vote on the ES Settlement as set forth in the Lehman Plan.

**2.1.71 ES Claimant.** The Holder of an Allowed ES Claim.

**2.1.72 ES Claimant Release and Assignment.** In exchange for the commitment of the Lehman Lenders under the Lehman Plan to make available funding for the ES Pro Rata Settlement Payments from, among other sources, Cash Collateral of the Lehman Creditors as of the Effective Date, in returning its Ballot accepting the ES Settlement Offer, each Settling ES Claimant by Vote shall be deemed to release the ES Claimant Released Claims, from and against all Lehman Releasees and all and any owners of the applicable Project(s) (that were at any time owned by the Plan Debtor against which the applicable Allowed ES Claim is asserted), including the Lehman Nominees, which owners are or were successors or assigns of the applicable Debtor, and, to the extent such ES Claimant Released Claims cannot be released by the ES Claimant, assigns to the applicable Lehman Lender (or if multiple applicable Lehman Lenders, the Lehman Lender holding the most senior Lien against the applicable Estate’s Project), all rights, benefits and interests of the Settling ES Claimant with respect to such ES Claimant Released Claims, all as more fully set forth in Section 7.8.3(i) of the Lehman Plan.

**2.1.73 ES Claimant Released Claims.** Any and all of an ES Settling Claimant’s causes of action, actions, rights of action, suits, judgments, liens, indebtedness, damages, losses, claims, liabilities, obligations, attorneys’ fees, costs, expenses and demands of every kind and character, whether known or unknown, suspected or unsuspected, disclosed or



undisclosed, including without limitation any Litigation Claims, whether for damages, subordination or other remedies, and including any and any objections or defenses to Lehman Related Party's Claims, Liens, rights, or causes of action, to the extent attributable to the ES Claims of such Settling ES Claimant or to the extent that the Net Cash Litigation Recoveries therefrom would be payable in respect of the ES Claims of such Settling ES Claimant.

**2.1.74 ES Date.** August 1, 2007, the earliest date on which the Lehman Lenders are alleged to have engaged in inequitable conduct as described in that certain adversary proceeding Filed in the Cases and pending before the Bankruptcy Court as Adversary Case No. 8:09-ap-01005.

**2.1.75 ES Judgment.** A judgment in favor of the Liquidating Trustee on behalf of and for the benefit of any particular group of ES Claimants in connection with any of the Equitable Subordination Claims against a Lehman Related Party.

**2.1.76 ES Litigation Expenses.** The reasonable and direct out-of-pocket expenses (but not any legal fees): (a) of and incurred by any replacement legal counsel to Miller Barondess, LLP, that is retained by the Liquidating Trustee on a contingency fee basis to prosecute the Equitable Subordination Claims of any ES Plan Debtor's Estate in an ES Action; (b) which are in excess of any Available Cash in the Post-Confirmation Accounts; and (c) which were incurred in connection with prosecuting the Equitable Subordination Claims in an ES Action; provided that (i) such expenses shall, under no circumstances, include any legal fees (including paralegal fees) or other fees of professionals employed by, or of, the replacement legal counsel or any other law firm (other than the reasonable fees and costs of any retained attorney expert witness) nor (ii) shall such expenses include any fees or expenses incurred or otherwise payable to Miller Barondess, LLP.

**2.1.77 ES Litigation Loan.** A loan to be made available by a Lehman Lender pursuant to the terms and conditions of and as further described in Section 7.8 of the Lehman Plan.

**2.1.78 ES Litigation Proceeds.** The proceeds of any ES Judgment or settlement (other than the ES Settlement) with respect to Non-Settled ES Claims.

**2.1.79 ES Plan Debtors.** All of the Plan Debtors other than: Kirby Estates; Seven Brothers; SunCal Beaumont; SunCal Century City; and SunCal Johansson

1                   **2.1.80     ES Pro Rata Settlement Payment.** A payment to any particular Holder  
2 of an Allowed ES Claim equal to the ES Settlement Amount multiplied by a fraction, the numerator  
3 of which shall be the amount of such Holders' Allowed ES Claim and the denominator of which  
4 shall be the amount of all Allowed ES Claims and all Allowed Mechanic's Lien Claims.

5                   **2.1.81     ES Settlement.** The settlement or settlements of Equitable Subordination  
6 Claims relating to any particular Estate of a Plan Debtor upon acceptance of an ES Settlement  
7 Offer.

8                   **2.1.82     ES Settlement Amount.** The maximum aggregate amount of  
9 \$15,000,000 to be made available to the Liquidating Trustee collectively by the Lehman Lenders as  
10 provided in Section 7.5 of the Lehman Plan to fund any ES Pro Rata Settlement Payments to be  
11 made to the ES Claimants who vote for acceptance of the ES Settlement Offer on their Ballots and  
12 return with the Ballots ES Claimant Release and Assignments (included with the Ballots) duly  
13 executed by such ES Claimants or who are deemed to have accepted or who are otherwise bound  
14 by, the ES Settlement pursuant to the terms of the Lehman Plan.

15                   **2.1.83     ES Settlement Offer.** The offer of the applicable Lehman Lender to  
16 settle the Equitable Subordination Claims relating to any particular Estate of an ES Plan Debtor by  
17 payment of the ES Pro Rata Settlement Payments either (a) to all Holders of Allowed ES Claims  
18 against such Estate who return a duly executed ES Claimant Release and Assignment, if there is  
19 Estate Acceptance of the ES Settlement by such Estate, or (b) only to the Holders of Allowed ES  
20 Claims against such Estate who vote for acceptance of the ES Settlement Offer on their Ballots and  
21 return with their Ballots duly executed ES Claimant Release and Assignments, if there is not Estate  
22 Acceptance of the ES Settlement by such Estate.

23                   **2.1.84     Estate or Estates.** The bankruptcy estates of the Debtors created  
24 pursuant to Section 541 of the Bankruptcy Code.

25                   **2.1.85     Estate Acceptance of the ES Settlement.** The circumstance by which  
26 the Estate of a Plan Debtor accepts the ES Settlement Offer, which occurs if at least one-half in  
27 number and two-thirds in amount of the voting ES Claimants in such Estate vote for acceptance of  
28

1 the ES Settlement Offer on their Ballots and (unless waived by the Lehman Lenders as to one or  
2 more Ballots) return with their Ballots a duly executed ES Claimant Release and Assignment.

3 **2.1.86 Estate ES Settlement Release.** In exchange for the commitment of the  
4 Lehman Lenders under the Lehman Plan to make available funding for the ES Pro Rata Settlement  
5 Payments from, among other sources, Cash Collateral of the Lehman Creditors, as of the Effective  
6 Date, the Estate of each Plan Debtor as to which there is a Settling ES Claimant, on behalf of itself  
7 and its Affiliates exclusive of other Debtors herein, shall be deemed to release all claims, including  
8 without limitation any Litigation Claims to the extent attributable to the ES Claims of the Settling  
9 ES Claimants or to the extent that the Net Cash Litigation Recoveries therefrom would be payable  
10 in respect of the ES Claims of the Settling ES Claimants, from and against all Lehman Releasees  
11 and all and any owners of the applicable Project(s) (that were at any time owned by the Plan Debtor  
12 of the releasing Estate), including the Lehman Nominees, which owners are or were successors or  
13 assigns of the applicable Debtor, all as more fully set forth in Section 7.8.2(b)(i) of the Lehman  
14 Plan.

15 **2.1.87 Fee Applications.** Applications of Professionals under Sections 330, 331  
16 or 503 of the Bankruptcy Code for allowance of compensation and reimbursement of expenses in  
17 the Cases.

18 **2.1.88 Fenway Capital.** Fenway Capital Funding LLC, which owns or holds a  
19 legal or equitable interest in all or a portion of the Lehman Loans made pursuant to and/or  
20 evidenced by the following loan agreements, but for which a Lehman Lender nonetheless continues  
21 as agent: (a) SunCal Communities I Loan Agreement; (b) Ritter Ranch Loan Agreement; (c)  
22 SunCal PSV Loan Agreement; (d) Delta Coves Loan Agreement; (e) SunCal Marblehead / SunCal  
23 Heartland Loan Agreement; (f) SunCal Oak Valley Loan Agreement; and (g) SunCal Northlake  
24 Loan Agreement.

25 **2.1.89 Filed.** Delivered to, received by and entered upon the legal docket by the  
26 Clerk of the Bankruptcy Court. "File" and "Filing" shall have correlative meanings.

27 **2.1.90 Final Order.** A final and non-appealable judgment, order, ruling or other  
28 decree issued and entered by a court of competent jurisdiction.

1                   **2.1.91     General Administrative Claim Bar Date.** The last date fixed by the  
2 Lehman Plan for the filing of Proofs of Claim or requests for payment of Administrative Claims  
3 other than for Taxes. Under the Lehman Plan, the General Administrative Claim Bar Date shall be  
4 the first Business Day after the sixtieth (60th) day after the Confirmation Date.

5                   **2.1.92     General Unsecured Claim.** A Claim against a Plan Debtor that is not (a)  
6 a Secured Claim, (b) an Administrative Claim, (c) a Priority Tax Claim, (d) a Priority Claim or (e)  
7 an ES Claim.

8                   **2.1.93     Heartland Project.** The Project owned by SunCal Heartland, located in  
9 Riverside County, California, as more particularly described herein.

10                  **2.1.94     Holder.** The beneficial owner of any Claim or Interest.

11                  **2.1.95     Insider.** (1) A Person other than a Lehman Related Party that is an  
12 “insider” as defined in Bankruptcy Code Section 101, (2) an Affiliate of a Person or (3) without  
13 limiting the foregoing, as to all Debtors, *inter alia*, each other Debtor, SunCal Management, LLC,  
14 Acquisitions, Elieff, Voss, Cook & Thel LLP, Greenfield Communications, SunCal Master Venture  
15 Member, LLC and SunCal Del Rio, LLC.

16                  **2.1.96     Interest.** Any equity security or interest in any Plan Debtor within the  
17 meaning of Section 101(16) of the Bankruptcy Code, including, without limitation, any equity  
18 ownership interest in any of the Plan Debtors, whether in the form of common or preferred stock,  
19 stock options, warrants, partnership interests, membership interests, or any other equity security or  
20 interest.

21                  **2.1.97     Interim Loan Agreement.** That certain Loan Agreement, dated as of  
22 October 31,2007, by and between SCC LLC, as borrower, and Lehman ALI, as agent and lender,  
23 pursuant to which the lender thereunder made a loan to the borrower in the maximum aggregate  
24 principal amount of approximately \$20,000,000. The outstanding balance of the loan under the  
25 Interim Loan Agreement was not less than \$23,795,012.59 as of the applicable Petition Date. The  
26 loan made pursuant to and/or evidenced by the Interim Loan Agreement is supported by a  
27 Subsidiary Guaranty made by SCC Communities, Tesoro and Del Rio and the obligations of the  
28 guarantors thereunder are secured by (a) a first priority deed of trust on the Joshua Ridge Project;

(b) a first priority deed of trust on the Tesoro Project; and (c) an assignment of the Del Rio CFD Bond Proceeds.

**2.1.98 Johannson Ranch Project.** The Project owned by SunCal Johannson, located in the City of Modesto, California, as more particularly described herein.

**2.1.99 Joshua Ridge Project.** The Project owned by SCC Communities, located in the City of Victorville, California, as more particularly described herein.

**2.1.100 Kirby Estates.** Kirby Estates, LLC, a Delaware limited liability company, a Voluntary Debtor herein, and the owner of that portion of the Summit Valley Project not owned by SunCal Summit Valley or Seven Brothers.

**2.1.101 LCPI.** Lehman Commercial Paper Inc., a New York corporation.

**2.1.102 Lehman Administrative Loans.** The post-petition financing provided by Lehman ALI to Palmdale Hills, SunCal Emerald, SunCal Bickford, Acton Estates, SunCal Oak Valley, SunCal Heartland, SunCal Northlake, SunCal Marblehead, SunCal Century City, SunCal PSV, Delta Coves, and SunCal Oak Knoll, under which first priority priming Liens were granted to Lehman ALI on all borrower Debtors' assets (with the exception of SunCal Century City in which the Liens are junior priority), and as to which financing, super-priority administrative status was afforded and the automatic stay was modified to the extent necessary to implement the financing. The aggregate amount of the Lehman Administrative Loans to all of the borrower Debtors was not less than \$1,790,572, as of September 9, 2009.

**2.1.103 Lehman ALI.** Lehman ALI, Inc., a Delaware corporation

**2.1.104 Lehman Appeal.** Any appeal by a Lehman Related Party relating to the Equitable Subordination Claims in an ES Action or any Cross-Collateralization Claims in a Cross-Collateralization Action.

**2.1.105 Lehman Appeal Affected Debtor.** Any Estate of a Plan Debtor that cannot close due to a pending Lehman Appeal concerning such Estate's Assets or liabilities, including subordination of certain of its liabilities to other of its liabilities.

**2.1.106 Lehman Commercial.** Lehman Commercial Paper Inc., a New York corporation.

1                   **2.1.107    Lehman Creditor.** Lehman Lender or Lehman Successor.

2                   **2.1.108    Lehman Creditor Party.** Lehman Lender, Lehman Successor, the direct  
3 or indirect parent of either, or an Affiliate of either that is wholly owned by the Lehman Lender,  
4 Lehman Successor or by a direct or indirect parent of such Lehman Lender or Lehman Successor.

5                   **2.1.109    Lehman Disclosure Statement.** The Disclosure Statement With Respect  
6 to Joint Chapter 11 Plan Proposed By Lehman Lenders.

7                   **2.1.110    Lehman Lender.** Lehman ALI, Lehman Commercial, Northlake  
8 Holdings or OVC Holdings, including each in its capacity as agent, or agent and lender, with  
9 respect to the applicable Lehman Loans.

10                  **2.1.111    Lehman Loan.** Each loan made pursuant to and/or evidenced by the  
11 following agreements: (a) SunCal Communities I Loan Agreement; (b) Bickford Second Lien Loan  
12 Agreement; (c) Ritter Ranch Loan Agreement; (d) SCC Palmdale Loan Agreement; (e) Interim  
13 Loan Agreement; (f) SunCal Oak Knoll/SunCal Torrance Loan Agreement; (g) SunCal PSV Loan  
14 Agreement; (h) Delta Coves Loan Agreement; (i) SunCal Marblehead / SunCal Heartland Loan  
15 Agreement; (j) SunCal Oak Valley Loan Agreement; and (k) SunCal Northlake Loan Agreement.

16                  **2.1.112    Lehman Nominee(s).** The entity or each entity designated by the  
17 Lehman Lenders, or any of them, to take title to a Remaining Real Estate Project as to which a  
18 Lehman Creditor is the Successful Bidder.

19                  **2.1.113    Lehman Plan.** This *Joint Chapter 11 Plan Proposed By Lehman*  
20 *Lenders*, together with the Exhibits hereto, as the same may be amended, modified or restated from  
21 time to time.

22                  **2.1.114    Lehman Plan Sale or Foreclosure Procedures.** The marketing, bidding  
23 and sale or transfer by foreclosure procedures for a sale or disposition of some or all of the Projects  
24 after confirmation of the Lehman Plan, all as more fully set forth in Section 7.7.2 of the Lehman  
25 Plan.

26                  **2.1.115    Lehman Post-Confirmation Expenses.** Post-Confirmation Expenses  
27 incurred with respect to a Litigation Claim against a Lehman Related Party, other than ES  
28

1 Litigation Expenses to the extent susceptible of satisfaction from the proceeds of the ES Litigation  
2 Loan.

3 **2.1.116 Lehman Post-Confirmation Loan(s).** All funding made available to the  
4 Liquidating Trustee in connection with, or after, the Effective Date from either or both new Cash  
5 transfers from or on behalf of a Lehman Related Party or by a Lehman Lender permitting the use of  
6 Cash Collateral of a Lehman Creditor, in either case to be in the form of one or more loans, plus all  
7 costs, fees and expenses incurred in connection with making or collecting such loan(s), plus ten  
8 percent (10%) annual, compounded interest on the outstanding balance of such loan(s).

9 **2.1.117 Lehman Proponents.** The Lehman Lenders, in their capacity as  
10 proponents of the Lehman Plan.

11 **2.1.118 Lehman Related Party.** A Lehman Lender, Lehman Successor or  
12 Lehman Nominee, or an Affiliate of any of them.

13 **2.1.119 Lehman Releasees.** The Lehman Lenders, LV Pacific Point LLC,  
14 Lehman Re Ltd., all other defendants in an ES Action, their respective Affiliates and each of their  
15 respective officers, directors, employees, agents, successors and assigns, including, without  
16 limitation, the Lehman Successors.

17 **2.1.120 Lehman Secured Claim.** A Secured Claim held by a Lehman Creditor.

18 **2.1.121 Lehman Settlement Approval.** Entry of a judgment, order, ruling or  
19 other decree by the United States Bankruptcy Court for the Southern District of New York, which  
20 court has jurisdiction over the case of Lehman Commercial under the Bankruptcy Code (jointly  
21 administered under case no. 08-13555), approving the actions of Lehman Commercial in proposing,  
22 voting for, participating in and implementing the settlement(s) represented by the Lehman Plan.

23 **2.1.122 Lehman Successor.** Any entity, other than a Lehman Lender, that either  
24 asserts to be or is determined by the Bankruptcy Court to be the owner of a Lehman Loan or any  
25 portion thereof, such as Fenway Capital.

26 **2.1.123 Liquidating Trustee.** An individual nominated by a Committee(s),  
27 identified no later than ten (10) Business Days prior to the commencement of the hearing on  
28 confirmation of the Lehman Plan and approved by the Bankruptcy Court as qualified to serve in

1 such capacity under the Lehman Plan; provided that if no other such person is so nominated,  
2 identified and approved, the Trustee shall serve as the Liquidating Trustee.

3 **2.1.124 Litigation Claim(s).** Any and all interests of the Liquidating Trustee,  
4 Plan Debtors or their Estates in any and all claims, Liens, rights, causes of action, and objections or  
5 defenses to Claims, Liens, rights, or causes of action to the extent not waived, released or  
6 compromised under the Lehman Plan that have been or may be commenced by the Debtor(s), the  
7 Liquidating Trustee, the Trustee, or the Committee(s), as the case may be, including, but not  
8 limited to (i) Avoidance Actions, including any Cross-Collateralization Action or other Avoidance  
9 Action against a Lehman Related Party; (ii) Claims, rights or causes of action for turnover of  
10 property to the Plan Debtors' Estates and/or Liquidating Trustee; (iii) Claims, rights or causes of  
11 action for the recovery of property by, or payment of money to, the Plan Debtors' Estates or the  
12 Liquidating Trustee, including Equitable Subordination Claims in an ES Action and Cross-  
13 Collateralization Claims in a Cross-Collateralization Action; (iv) the right of the Liquidating  
14 Trustee to compensation in the form of damages, recoupment, or setoff; and (v) objections to  
15 Claims.

16 **2.1.125 Litigation Recoveries.** Any Cash or other property received by the  
17 Trustee, the Plan Debtors, the Liquidating Trustee, or the Committees, as the case may be, from all  
18 or any portion of a Litigation Claim(s), including, but not limited to, awards of damages, attorneys'  
19 fees and expenses, interest and punitive damages, whether recovered by way of settlement,  
20 execution on judgment or otherwise.

21 **2.1.126 Marblehead Project.** The Project owned by SunCal Marblehead, located  
22 in the City of San Clemente, California.

23 **2.1.127 Maximum DOT Security Amount.** The aggregate amount secured by  
24 the PRA Recovery Deeds of Trust at any time which shall be equal to the Maximum PRA Recovery  
25 Amount less the aggregate amount in the Plan Reserve (including any interest accrued on funds  
26 therein).

27 **2.1.128 Maximum PRA Recovery Amount.** An amount that serves as the  
28 maximum aggregate amount secured by the PRA Recovery Security Pool and equals specifically,



1 the sum of the following: (a) \$1.74 million, if and only if there is a pending Reconveyance  
2 Agreement evidencing the obligation, upon entry of a Cross-Collateralization Judgment, to  
3 reconvey the Acton Project, Joshua Ridge Project or Tesoro Project to the applicable Plan Debtors;  
4 and (b) for an ES Judgment, (i) \$200 million less, if applicable, (ii) the amount determined as set  
5 forth in clause (a) hereof, if any, multiplied by (iii) the Non-Settling ES Claimant Percentage;  
6 provided that, on motion of a Lehman Related Party, the amounts set forth in clauses (a) or (b)(i)  
7 hereof may be reduced upon a Final Order of the Bankruptcy Court, as described in Section  
8 7.7.2(c)(v) of the Lehman Plan.

9 **2.1.129 Mechanic's Lien Claim.** Mechanic's lien claims against a Plan Debtor's  
10 Project arising pursuant to California Civil Code §3110, et seq. that were either allegedly perfected  
11 prepetition or otherwise and allegedly satisfy the requirements of Bankruptcy Code Section 546(b).

12 **2.1.130 Negative Covenant.** The provision in each PRA Recovery Deed of Trust  
13 that the applicable Lehman Nominee will not cause, through an affirmative action on its part (as  
14 opposed to any inaction or failure to act), any hazardous substances to be deposited onto the  
15 applicable PRA Security Project encumbered by such PRA Recovery Deed of Trust at any time  
16 following the acquisition of title to such PRA Security Project by such Lehman Nominee and prior  
17 to the sale of such PRA Security Project; provided, however, that the Lehman Nominee shall have  
18 no obligation to (1) clean up, remove or remediate any existing hazardous substances (including,  
19 without limitation, any asbestos, mold or petroleum products) which may be present on or within  
20 such PRA Security Project or which may be emanating therefrom as of the date of the conveyance  
21 of such property to such Lehman Nominee or (2) take any action or incur any expense to prevent  
22 hazardous substances from existing or being present on or within such PRA Security Project or  
23 from otherwise emanating therefrom except as specifically provided above.

24 **2.1.131 Net Cash Litigation Recoveries.** Any Litigation Recoveries consisting  
25 of Cash and any Cash proceeds of Litigation Recoveries less associated Post-Confirmation  
26 Expenses incurred in connection therewith.

27 **2.1.132 Net Cash Proceeds.** Net Proceeds consisting of Cash.  
28

1                   **2.1.133    Net Proceeds.** Gross proceeds of sale, liquidation or refinancing, less  
2 costs, expenses, fees, commissions, taxes (including federal, state and local income tax calculated  
3 at an assumed rate of forty-five percent (45%)) and other charges incurred directly in the sale,  
4 liquidation or refinancing of the underlying asset, including payment of senior Liens or  
5 encumbrances.

6                   **2.1.134    Non-Settled ES Claims.** The ES Claims of Non-Settling ES Claimants.

7                   **2.1.135    Non-Settling ES Claimant(s):** With respect to each Estate of an ES Plan  
8 Debtor, ES Claimants that do not vote to accept the ES Settlement Offer, unless there is Estate  
9 Acceptance of the ES Settlement for such Estate, in which case there shall be no Non-Settling  
10 ES Claimants of such Estate.

11                   **2.1.136    Non-Settling ES Claimant Percentage.** The percentage of Allowed ES  
12 Claims that are held by Non-Settling ES Claimants.

13                   **2.1.137    Northlake Holdings.** Northlake Holdings LLC, a Delaware limited  
14 liability company.

15                   **2.1.138    Northlake Project.** The Project owned by SunCal Northlake, located in  
16 the City of Castaic California, as more particularly described herein.

17                   **2.1.139    Oak Knoll Project.** The Project owned by SunCal Oak Knoll, located in  
18 the City of Oakland, California, as more particularly described herein.

19                   **2.1.140    Oak Valley Project.** The Project owned by SunCal Oak Valley, located  
20 in Riverside County, California, as more particularly described herein.

21                   **2.1.141    Other Secured Claim.** A Secured Claim that is not a Secured Real  
22 Property Tax Claim, Lehman Secured Claim or Danske Secured Claim.

23                   **2.1.142    OVC Holdings.** OVC Holdings LLC, a Delaware limited liability  
24 company.

25                   **2.1.143    Pacific Point Project.** The Project formerly owned by SJD Partners,  
26 which was non-judicially foreclosed upon pursuant to a sale on August 28, 2008 by LV Pacific  
27 Point LLC, a Delaware limited liability company.  
28

1                   **2.1.144    Palmdale Hills.** Palmdale Hills Property, LLC, a Delaware limited  
2 liability company, a Voluntary Debtor herein, and the owner of the Ritter Ranch Project, the Ritter  
3 Cash and the Palmdale Hills CFD Bonds.

4                   **2.1.145    Palmdale Hills CFD Bonds.** Certain community facilities district bonds  
5 issued by the City of Palmdale that are owned by Palmdale Hills.

6                   **2.1.146    Palm Springs Village Project.** The Project owned by SunCal PSV,  
7 located in the City of Palm Springs, California, as more particularly described herein.

8                   **2.1.147    Permitted Liens.** (a) Statutory liens for Secured Real Property Tax  
9 Claims; (b) easements, covenants, conditions, restrictions and other matters of record affecting real  
10 property, leasehold estates or personalty or any interest therein (excluding any rights of appeal from  
11 the Final Order with respect to the sale or conveyance of the Project) that (i) appear on the lender  
12 title insurance policies concerning such Project issued to the relevant Lehman Lender or (ii) do not  
13 in any material respect detract from the value of the relevant Project and do not individually or in  
14 the aggregate in any material respect interfere with the use, ownership or operation of the property,  
15 excluding Liens that will be removed and stricken as against the relevant Project pursuant to the  
16 Final Order with respect to the sale or conveyance of the Project, (c) the effect of any building and  
17 zoning regulations, now existing or hereafter in effect with respect to the relevant Project that are  
18 not violated by the current use of the Project, (d) oil, mineral and/or water rights, and claims of title  
19 thereto, shown by the public records, (e) discrepancies, conflicts in boundary lines, shortages in  
20 area or encroachments which an inspection or survey of the subject Project would disclose and (f)  
21 other Liens to which the transferor of the property, in connection with such transfer, agrees to take  
22 subject.

23                   **2.1.148    Person.** An individual, partnership, corporation, limited liability  
24 company, business trust, joint stock company, trust, unincorporated association, joint venture,  
25 governmental authority, governmental unit, committee or other entity of whatever nature.

26                   **2.1.149    Petition Dates.** The following are dates that each of the Voluntary  
27 Debtors Filed their voluntary chapter 11 petitions or Creditors Filed involuntary chapter 11  
28 petitions against the Trustee Debtors:

Palmdale Hills	November 6, 2008
SunCal Beaumont	November 6, 2008
SCC Palmdale	November 7, 2008
SunCal Johannson	November 7, 2008
SunCal Summit Valley	November 7, 2008
SunCal Emerald	November 7, 2008
SunCal Bickford	November 7, 2008
Acton Estates	November 7, 2008
Seven Brothers	November 7, 2008
SJD Partners	November 7, 2008
SJD Development	November 7, 2008
Kirby Estates	November 7, 2008
SunCal I	November 7, 2008
SunCal III	November 7, 2008
SCC Communities	November 19, 2008
Del Rio	November 19, 2008
Tesoro	November 19, 2008
Delta Coves	November 14, 2008
SunCal Heartland	November 12, 2008
SunCal Marblehead	November 12, 2008
SunCal Northlake	November 12, 2008
SunCal Oak Valley	November 12, 2008
SunCal Century City	November 14, 2008
SunCal PSV	November 14, 2008
SunCal Torrance	November 14, 2008
SunCal Oak Knoll	November 19, 2008

**2.1.150 Plan.** The Lehman Plan.

**2.1.151 Plan Debtors.** The 24 Debtors for which the Lehman Plan is being proposed, consisting of all of the Debtors other than SJD Development and SunCal III (the Estates of which are believed to hold no Assets of any significant current or potential value).

**2.1.152 Plan Release.** In exchange for the extension of credit represented by the additional Lehman Post-Confirmation Loans, the ES Settlement Offer and the delayed satisfaction of the Secured Claims of the Lehman Related Parties, as of the Effective Date, the Estate of each Plan Debtor shall be deemed to release all claims, including any Litigation Claims except certain Avoidance Actions and certain claims therein and except that, with respect to all Equitable Subordination Claims in an ES Action and certain Cross-Collateralization Claims asserted in a Cross-Collateralization Action, each owner of each PRA Security Project shall have a non-recourse obligation to reconvey each PRA Security Project to the Liquidating Trustee if required by a Project Related Action Recovery, which obligation shall be secured by the PRA Recovery Security

1 Pool and, at a Lehman Nominee's election, instead may be satisfied by a Cash payment in the  
2 amount of any Project Related Action Recovery, all as more fully set forth in Section 7.10 of the  
3 Lehman Plan.

4 **2.1.153 Plan Reserve.** A reserve fund established by the Liquidating Trustee to  
5 hold the Ritter Cash, all Cash Collateral of a Lehman Creditor held by a Plan Debtor, and any other  
6 Cash required or permitted to be deposited therein on the Effective Date pursuant to the terms of  
7 the Lehman Plan and which funds shall be subject to withdrawal pursuant to the terms of the  
8 Lehman Plan, including (i) all Net Cash Proceeds of sales or refinancing of certain Remaining Real  
9 Estate Projects as set forth in the Lehman Plan and (ii) any other Cash which the Lehman Related  
10 Parties may desire to deposit therein from time to time, all upon the terms and conditions set forth  
11 in Article VII of the Lehman Plan. Such funds shall be held in account(s) to be established at an  
12 FDIC insured bank to be selected by the Liquidating Trustee with the consent of the Lehman  
13 Lenders, which consent shall not be unreasonably withheld. There shall be separate accounts or  
14 accounting for the Ritter Cash, Net Cash Proceeds derived from each Remaining Real Estate  
15 Project and other Cash Collateral of a Lehman Creditor as to a Plan Debtor, with the Ritter Cash  
16 being attributed to the Ritter Ranch Project, Net Cash Proceeds being attributed to the Remaining  
17 Real Estate Project, the sale or refinancing of which resulted in such Net Cash Proceeds and other  
18 Cash Collateral of a Lehman Creditor being attributed to the applicable Plan Debtor. The  
19 applicable Lehman Creditor shall report the Cash Collateral held in the Plan Reserve as being  
20 owned by it for all applicable federal, state and local income tax purposes. The Liquidating Trustee  
21 shall distribute, or cause to be distributed, forty five percent (45%) of all income and gain earned  
22 with respect to amounts in the Plan Reserve no less than annually and prior to any such amounts  
23 being otherwise distributed pursuant to the Plan.

24 **2.1.154 Post-Confirmation Account(s).** An account with a bank, financial  
25 institution or similar depository in which the Liquidating Trustee holds Cash or other liquid assets  
26 or securities for any Plan Debtor.

27 **2.1.155 Post-Confirmation Expenses.** The fees and expenses incurred by the  
28 Liquidating Trustee or the Committees following the Effective Date (including the fees and costs of

1 Professionals and the Lehman Post-Confirmation Loans) for the purpose of (i) prosecuting and/or  
2 liquidating the Litigation Claims; (ii) selling or otherwise liquidating the Liquidating Trustee's  
3 Assets; (iii) effectuating Distributions under the Lehman Plan; and (iv) otherwise consummating  
4 the Lehman Plan and closing the Debtor(s)' Cases.

5 **2.1.156 PRA Recovery Deed(s) of Trust.** A deed or deeds of trust as to any  
6 particular PRA Security Project to be granted by the Lehman Nominee in favor of the Liquidating  
7 Trustee upon conveyance of a Remaining Real Estate Project to one or more Lehman Nominees in  
8 connection with the Lehman Plan Sale or Foreclosure Procedures, subject to any Permitted Liens,  
9 which deeds of trust (a) secure the obligations set forth in the Reconveyance Agreements, and (b)  
10 are to be released or subordinated as set forth in Section 7.7.2(c) of the Lehman Plan. The PRA  
11 Security Deeds of Trust secure, in the aggregate, an amount not in excess of the Maximum DOT  
12 Security Amount.

13 **2.1.157 PRA Recovery Security Pool.** At any time, collectively, the PRA  
14 Recovery Deeds of Trust then in effect and the Plan Reserve.

15 **2.1.158 PRA Security Project.** Each Project conveyed to a Lehman Nominee  
16 pursuant to the Lehman Plan Sale or Foreclosure Procedures.

17 **2.1.159 Priority Claim.** Any Claim, other than an Administrative Claim or a  
18 Priority Tax Claim, to the extent entitled to priority under Section 507(a) of the Bankruptcy Code.

19 **2.1.160 Priority Tax Claim.** Any Claim for any Tax to the extent that it is  
20 entitled to priority in payment under Section 507(a)(8) of the Bankruptcy Code or would be so  
21 entitled were it not secured.

22 **2.1.161 Professional.** A Person (a) employed by the Plan Debtors, the  
23 Committees pursuant to a Final Order in accordance with Sections 327 and 1103 of the Bankruptcy  
24 Code and to be compensated for services rendered prior to the Effective Date, pursuant to  
25 Sections 327, 328, 3291, 330 and 331 of the Bankruptcy Code, or (b) for which compensation and  
26 reimbursement has been allowed by the Bankruptcy Court pursuant to Section 503(b) of the  
27 Bankruptcy Code.  
28

1                   **2.1.162    Professional Fees.** All Allowed Claims for compensation and for  
2 reimbursement of expenses under Sections 328, 330 and/or 503(b) of the Bankruptcy Code

3                   **2.1.163    Projects.** The Plan Debtors' real estate development projects as more  
4 particularly described on an Exhibit or supplement hereto to be Filed on or before the Effective  
5 Date, together with all rights, remedies, privileges and easements appurtenant thereto and all other  
6 real and personal, tangible and intangible, property related thereto.

7                   **2.1.164    Project Related Action.** An ES Action or Cross-Collateralization  
8 Action.

9                   **2.1.165    Project Related Action Recovery.** An ES Judgment or Cross-  
10 Collateralization Judgment.

11                   **2.1.166    Pro Rata.** (a) With respect to any distribution in respect of any Allowed  
12 Claim, proportionately, so that the ratio of (i)(1) the amount of property distributed on account of  
13 such Allowed Claim to (2) the amount of such Allowed Claim, is the same as the ratio of (ii)(1) the  
14 amount of property distributed on account of all Allowed Claims of the Class or Classes of the  
15 applicable Estate sharing in such distribution to (2) the amount of all Allowed Claims in such Class  
16 or Classes of the applicable Estate; and (b) in calculating allocations of responsibility for  
17 obligations among Debtors, Pro Rata shall be determined in reference to the Liquidating Trustee's  
18 reasonable estimate of the gross value of each applicable Estate's Assets as of the Confirmation  
19 Date.

20                   **2.1.167    Proof of Claim.** A proof of claim as referenced in Bankruptcy Code  
21 Section 501(a).

22                   **2.1.168    Proof of Interest.** A proof of interest as referenced in Bankruptcy Code  
23 Section 501(a).

24                   **2.1.169    Reconveyance Agreement.** A written agreement to be executed by, and  
25 evidencing, among other things, the non-recourse obligations of, a Lehman Nominee to which a  
26 PRA Recovery Security Project is conveyed pursuant to the Lehman Plan Sale or Foreclosure  
27 Procedures, as more fully set forth in Section 7.7.2(c)(iii) of the Lehman Plan.  
28

1                   **2.1.170    Remaining Other Assets.** All of the then remaining Assets of the Plan  
2 Debtors' Estates excluding the Projects, as of the point in time referenced in any particular  
3 utilization of this term in the Lehman Plan.

4                   **2.1.171    Remaining Real Estate Projects.** All of the then remaining Projects as  
5 of the point in time referenced in any particular utilization of this term in the Lehman Plan.

6                   **2.1.172    Residual Cash.** As to any particular Plan Debtor's Estate, Net Cash  
7 Proceeds derived from the liquidation by the Liquidating Trustee of any Remaining Real Estate  
8 Projects owned by such Estate and any Remaining Other Assets of such Estate, including any  
9 applicable Net Cash Litigation Recoveries in which such Estate has an interest, to the extent not  
10 subject to a Secured Claim (or to a Claim to which such Secured Claim is subordinated) and  
11 remaining after payment or reserve for the Lehman Post-Confirmation Loans and, as provided in  
12 the Lehman Plan, certain Post-Confirmation Expenses, post-Confirmation Date intercompany  
13 payables and due and payable Allowed Administrative Claims, Allowed Priority Claims and  
14 Allowed Priority Tax Claims, all as more fully set forth in Section 7.9 of the Lehman Plan.

15                   **2.1.173    Ritter Cash.** As of the Effective Date, the Cash owned by Palmdale Hills  
16 or in which Palmdale Hills has any residual interest and held in escrow, reserve or other accounts  
17 for the benefit of Lehman Commercial and securing the loans made pursuant to the Ritter Ranch  
18 Loan Agreement.

19                   **2.1.174    Ritter Ranch Loan Agreement.** That certain Credit Agreement, dated as  
20 of February 8, 2007, by and among Palmdale Hills, as borrower, and Lehman Commercial, as  
21 administrative agent and lender, pursuant to which the lenders thereunder made loans to the  
22 borrower in the maximum aggregate principal amount of approximately \$264,000,000. The loans  
23 made pursuant to and/or evidenced by the Ritter Ranch Loan Agreement are secured by, among  
24 other things, a first priority deed of trust on the Ritter Ranch Project. The outstanding balance of  
25 the loans under the Ritter Ranch Loan Agreement was not less than \$287,252,096.31 as of the  
26 applicable Petition Date.

27                   **2.1.175    Ritter Ranch Project.** The Project owned by Palmdale Hills, located in  
28 the City of Palmdale, California, as more particularly described herein.



1                   **2.1.176   SCC Communities.** SCC Communities, LLC, a limited liability  
2 company, a Voluntary Debtor herein, and the owner of the Joshua Ridge Project.

3                   **2.1.177   SCC LLC.** SCC Acquisitions LLC, a Delaware limited liability  
4 company, a subsidiary of Acquisitions and an indirect and/or a direct parent of each of the Debtors,  
5 but not itself a Debtor in any of the Cases.

6                   **2.1.178   SCC Palmdale.** SCC Palmdale, LLC, a Delaware limited liability  
7 company, a Voluntary Debtor herein, and the Holder of the Allowed Interest in Palmdale Hills.

8                   **2.1.179   SCC Palmdale Loan Agreement. That certain** Mezzanine Credit  
9 Agreement, between SCC Palmdale, as borrower, and Lehman Commercial, as lender, pursuant to  
10 which the lender thereunder made a loan to the borrower in the maximum aggregate principal  
11 amount of approximately \$95,000,000. The loan made pursuant to and/or evidenced by the SCC  
12 Palmdale Loan Agreement is secured by a pledge of SCC Palmdale's Allowed Interest in Palmdale  
13 Hills. The outstanding balance of the loan under the SCC Palmdale Loan was not less than  
14 \$119,664,305.25 as of the applicable Petition Date.

15                   **2.1.180   Schedules.** The schedules of assets and liabilities and list of equity  
16 security holders Filed by the Debtors, as required by Section 521(1) of the Bankruptcy Code,  
17 Bankruptcy Rules 1007(a)(3) and (b)(1), and Official Bankruptcy Form No. 6, as amended from  
18 time to time.

19                   **2.1.181   Secured Claim.** Any Claim, including interest, fees, costs, and charges to  
20 the extent allowable pursuant to Bankruptcy Code Section 506, to the extent that it is secured by a  
21 valid and unavoidable Lien on the Plan Debtor(s)' Assets.

22                   **2.1.182   Secured Real Property Tax Claims.** Secured Claims, other than Priority  
23 Tax Claims, held by various government entities for real property tax assessments secured by Liens  
24 on the underlying real properties owned by the Plan Debtors but that are non-recourse to the Plan  
25 Debtors.

26                   **2.1.183   Settling ES Claimant(s):** (1) a Settling ES Claimant by Vote or (2) an  
27 ES Claimant in an Estate which accepts the ES Settlement Offer.  
28

1                   **2.1.184    Settling ES Claimant(s) by Vote:** Each ES Claimant who votes for  
2 acceptance of the ES Settlement Offer on its Ballot and returns with the Ballot an ES Claimant  
3 Release and Assignment duly executed by such ES Claimant, included with the Ballot.

4                   **2.1.185    Seven Brothers.** Seven Brothers, LLC, a Delaware limited liability  
5 company, a Voluntary Debtor herein, and the owner of that portion of the Summit Valley Project  
6 not owned by Kirby Estates or SunCal Summit Valley.

7                   **2.1.186    SJD Development.** SJD Development Corp., a California corporation, a  
8 Voluntary Debtor herein, and the Holder of an Allowed Interest in SJD Partners.

9                   **2.1.187    SJD Partners.** SJD Partners, Ltd., a California limited partnership, a  
10 Voluntary Debtor herein, and the prior owner of the Pacific Point Project.

11                   **2.1.188    Successful Bidder.** With respect to the each Remaining Real Estate  
12 Project, the successful bidder at the auction for the sale of such Remaining Real Estate Project  
13 conducted by the Liquidating Trustee pursuant to the Lehman Plan Sale or Foreclosure Procedures.

14                   **2.1.189    Summit Valley Project.** The Project owned in part by SunCal Summit  
15 Valley, Seven Brothers and Kirby Estates, located in the City of Hesperia, California, as more  
16 particularly described herein.

17                   **2.1.190    SunCal.** The SunCal Companies, a trade name for Acquisitions and its  
18 Affiliates.

19                   **2.1.191    SunCal I.** SunCal Communities I, LLC, a Delaware limited liability  
20 company, a Voluntary Debtor herein, and the owner of the equity membership interests in Acton  
21 Estates, SunCal Bickford, SunCal Beaumont, SunCal Summit Valley, SunCal Johannson and  
22 SunCal Emerald.

23                   **2.1.192    SunCal III.** SunCal Communities III, LLC, a Delaware limited liability  
24 company, a Voluntary Debtor herein.

25                   **2.1.193    SunCal Beaumont.** SunCal Beaumont Heights, LLC, a Delaware limited  
26 liability company, a Voluntary Debtor herein, and the owner of the Beaumont Heights Project.

27                   **2.1.194    SunCal Bickford.** SunCal Bickford Ranch, LLC, a Delaware limited  
28 liability company, a Voluntary Debtor herein, and the owner of the Bickford Ranch Project.

1                   **2.1.195    SunCal Century City.** SunCal Century City, LLC, a Delaware limited  
2 liability company, a Trustee Debtor herein, and the owner of the 10000 Santa Monica Project.

3                   **2.1.196    SunCal Century City Loan Agreement.** That certain Loan Agreement,  
4 dated as of August 11, 2006, by and between SunCal Century City, as borrower and Lehman ALI,  
5 as agent and sole lender pursuant to which Lehman ALI made a loan in the aggregate maximum  
6 principal amount of approximately \$120,000,000. The SunCal Century City Loan Agreement is  
7 secured by a first-priority deed of trust on the 10000 Santa Monica Project. The SunCal Century  
8 City Loan Agreement has a balance due of \$120,000,000.00 as of April 1, 2009.

9                   **2.1.197    SunCal Communities I Loan Agreement.** That certain Credit  
10 Agreement, dated as of November 17, 2005, by and among (i) SunCal I and SunCal III, as  
11 borrowers, Lehman Brothers, Inc., as sole advisor, sole lead arranger and sole bookrunner, and  
12 Lehman Commercial, as syndication and administrative agent and sole lender, pursuant to which  
13 the lenders thereunder made a loan to the borrowers in the maximum aggregate principal amount of  
14 approximately \$395,313,713.37. The loan made pursuant to and/or evidenced by the SunCal  
15 Communities I Loan Agreement is secured directly or indirectly by (a) first priority deeds of trust  
16 on the SunCal Bickford, the Acton Estates, and the SunCal Emerald Projects, (b) pledges of SunCal  
17 I's Allowed Interest in Acton Estates, SunCal Summit Valley, SunCal Beaumont; SunCal  
18 Johansson, SunCal Emerald, and SunCal Bickford; and (c) pledges of SunCal Summit Valley's  
19 Allowed Interest in Seven Brothers and Kirby Estates. The outstanding balance of the loan under  
20 the SunCal Communities I Loan Agreement was \$343,221,391.06 as of the applicable Petition  
21 Date.

22                   **2.1.198    SunCal Emerald.** SunCal Emerald Meadows, LLC, a Delaware limited  
23 liability company, a Voluntary Debtor herein, and the owner of the Emerald Meadows Project.

24                   **2.1.199    SunCal Heartland.** SunCal Heartland, LLC, a Delaware limited liability  
25 company, a Trustee Debtor herein, and the owner of the Heartland Project

26                   **2.1.200    SunCal Johansson.** SunCal Johansson Ranch, LLC, a Delaware limited  
27 liability company, a Voluntary Debtor herein, and the owner of the Johansson Ranch Project.  
28

1                   **2.1.201    SunCal Marblehead.** SunCal Marblehead, LLC, a Delaware limited  
2 liability company, a Trustee Debtor herein, and the owner of the Marblehead Project.

3                   **2.1.202    SunCal Marblehead / SunCal Heartland Loan Agreement.** That  
4 certain Second Amended and Restated Term Loan and Revolving Line of Credit Loan Agreement,  
5 dated as of October 3, 2007, by and among SunCal Marblehead Heartland Master LLC, SunCal  
6 Marblehead, and SunCal Heartland, as borrowers, and Lehman ALI, as agent and sole lender,  
7 pursuant to which the lenders thereunder made loans to the borrowers in the maximum aggregate  
8 principal amount of approximately \$316,061,300. The loans made pursuant to and/or evidenced by  
9 the SunCal Marblehead / SunCal Heartland Loan Agreement are secured by first priority deeds of  
10 trust on the Marblehead and the Heartland Projects. The outstanding aggregate balance of the loans  
11 under the SunCal Marblehead / SunCal Heartland Loan Agreement was not less than  
12 \$354,325,126.15 as of the applicable Petition Date.

13                   **2.1.203    SunCal Northlake.** LB/L-SunCal Northlake, LLC, a Delaware limited  
14 liability company, a Trustee Debtor herein, and the owner of the Northlake Project.

15                   **2.1.204    SunCal Northlake Loan Agreement.** That certain Term Loan and  
16 Revolving Line of Credit Loan Agreement, dated as of September 9, 2005, between SunCal  
17 Northlake, as borrower, and Northlake Holdings, as successor agent and sole lender, pursuant to  
18 which the lenders thereunder made loans in the maximum aggregate principal amount of  
19 approximately \$100,000,000. The loans made pursuant to and/or evidenced by the SunCal  
20 Northlake Loan Agreement are secured by a first priority deed of trust on the Northlake Project.  
21 The outstanding aggregate balance of the loans under the SunCal Northlake Loan Agreement was  
22 not less than \$123,654,776.88 as of the applicable Petition Date.

23                   **2.1.205    SunCal Oak Knoll.** SunCal Oak Knoll, LLC, a Delaware limited liability  
24 company, a Trustee Debtor herein, and the owner of the Oak Knoll Project.

25                   **2.1.206    SunCal Oak Knoll/SunCal Torrance Loan Agreement.** That certain  
26 Loan Agreement, dated as of November 30, 2006, between SunCal Torrance and SunCal Oak  
27 Knoll, as borrowers, and Lehman ALI, as agent and sole lender, pursuant to which the lenders  
28 thereunder made a loan to the borrowers in the maximum aggregate principal amount of

1 approximately \$167,700,000. The loans made pursuant to and/or evidenced by the SunCal Oak  
2 Knoll/SunCal Torrance Loan Agreement are secured by first priority deeds of trust on the Oak  
3 Knoll and the Del Amo Projects. The outstanding aggregate balance of the loans under the SunCal  
4 Oak Knoll/SunCal Torrance Loan Agreement was not less than \$157,870,186.15 as of the  
5 applicable Petition Date.

6 **2.1.207 SunCal Oak Valley.** LB/L-SunCal Oak Valley, LLC, a Delaware limited  
7 liability company, a Trustee Debtor herein, and the owner of the Oak Valley Project.

8 **2.1.208 SunCal Oak Valley Loan Agreement.** That certain Term Loan and  
9 Revolving Line of Credit Loan Agreement, dated as of May 23, 2006, by and between SunCal Oak  
10 Valley, as borrower, and OVC Holdings, as successor agent and sole lender, pursuant to which the  
11 lenders thereunder made loans to the borrower in the maximum aggregate principal amount of  
12 approximately \$120,000,000. The loans made pursuant to and/or evidenced by the SunCal Oak  
13 Valley Loan Agreement are secured by a first priority deed of trust on the Oak Valley Project. The  
14 outstanding aggregate balance of the loans under the SunCal Oak Valley Loan Agreement was not  
15 less than \$143,630,091.63 as of the applicable Petition Date.

16 **2.1.209 SunCal PSV.** SunCal PSV, LLC, a Delaware limited liability company, a  
17 Trustee Debtor herein, and the owner of the Palm Springs Village Project.

18 **2.1.210 SunCal PSV Loan Agreement.** That certain Term Loan and Revolving  
19 Line of Credit Loan Agreement, dated as of February 12, 2007, between SunCal PSV, as borrower,  
20 and Lehman ALI, as agent and sole lender, pursuant to which the lenders thereunder made loans to  
21 the borrower in the maximum aggregate principal amount of approximately \$90,000,000. The  
22 loans made pursuant to and/or evidenced by the SunCal PSV Loan Agreement are secured by a first  
23 priority deed of trust on the Palm Springs Village Project. The outstanding aggregate balance of  
24 the loans under the SunCal PSV Loan Agreement was not less than \$88,257,340.20 as of the  
25 applicable Petition Date.

26 **2.1.211 SunCal Summit Valley.** SunCal Summit Valley, LLC, a Delaware  
27 limited liability company, a Voluntary Debtor herein, the owner of that portion of the Summit  
28

Valley Project not owned by Kirby Estates or Seven Brothers, and the Holder of Allowed Interests in Kirby Estates and Seven Brothers.

**2.1.212 SunCal Torrance.** SunCal Torrance, LLC, a Delaware limited liability company, a Trustee Debtor herein, and the owner of the Del Amo Project.

**2.1.213 Tax.** Any tax, charge, fee, levy, impost or other assessment by any federal, state, local or foreign taxing authority, including, without limitation, income, excise, property, sales, transfer, employment, payroll, franchise, profits, license, use, ad valorem, estimated, severance, stamp, occupation and withholding tax. "Tax" shall include any interest or additions attributable to, or imposed on or with respect to such assessments.

**2.1.214 Tesoro.** Tesoro SF, LLC, a Delaware limited liability company, a Voluntary Debtor herein, and the owner of the Tesoro Project.

**2.1.215 Tesoro Project.** The Project owned by Tesoro located in the City of Santa Clarita, California, as more particularly described herein.

**2.1.216 Trustee.** Steven M. Speier, the duly appointed trustee of the Trustee Debtors.

**2.1.217 Trustee Debtor(s).** The following chapter 11 debtors, individually or collectively, that are represented by the Trustee: Delta Coves, SunCal Heartland, SunCal Marblehead, SunCal Northlake, SunCal Oak Valley, SunCal Century City, SunCal PSV, SunCal Torrance, and SunCal Oak Knoll.

**2.1.218 Trustee Debtors' Committee.** The Official Committee of Unsecured Creditors of the Trustee Debtors appointed in the Cases of the Trustee Debtors pursuant to Section 1102 of the Bankruptcy Code.

**2.1.219 Unclaimed Property.** Cash held for Distribution if either (1) such the Distribution of Cash to the Holder of any Allowed Claim is returned to the Liquidating Trustee (e.g., as undeliverable) and the check or other similar instrument or Distribution remains unclaimed for one hundred twenty (120) days from sending or (2) the check or other similar instrument used for the Distribution to the Holder of any Allowed Claim remains uncashed for one hundred twenty (120) days from sending; or (3) the Liquidating Trustee does not have an address for a Holder of

any Allowed Claim on the date such Distribution first could have been made under the Plan and for one hundred twenty (120) days thereafter.

**2.1.220 Voluntary Debtor(s).** The following chapter 11 debtors and debtors-in-possession, individually or collectively, Palmdale Hills, SunCal I, SunCal III, SCC Palmdale, Acton Estates, SunCal Beaumont, SunCal Emerald, SunCal Johansson, SunCal Bickford, SunCal Summit Valley, Seven Brothers, Kirby Estates, SJD Partners, SJD Development, SCC Communities, Del Rio and Tesoro.

**2.1.221 Voluntary Debtors' Committee.** The Official Committee of Unsecured Creditors of the Voluntary Debtors appointed in the Cases of the Voluntary Debtors pursuant to Section 1102 of the Bankruptcy Code.

**2.2 Rules of Construction.** For purposes of the Lehman Plan and the Lehman Disclosure Statement, unless otherwise provided herein or in the Lehman Disclosure Statement, (a) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, will include both the singular and the plural; (b) each pronoun stated in the masculine, feminine or neuter includes the masculine, feminine and neuter; (c) any reference in the Lehman Plan or the Lehman Disclosure Statement to an existing document or schedule Filed or to be Filed means such document or schedule, as it may have been or may be amended, modified or supplemented pursuant to the Lehman Plan; (d) any reference to an entity as a Holder of a Claim or Interest includes that entity's successors and assigns; (e) except as otherwise indicated herein all references in the Lehman Plan or the Lehman Disclosure Statement to Sections and Articles are references to Sections and Articles of or to the Lehman Plan; (f) the words "therein," "thereunder" and "thereto" refer to the Lehman Plan in its entirety rather than to a particular portion of the Lehman Plan; (g) unless otherwise provided in the Lehman Plan or the Lehman Disclosure Statement, any reference in the Lehman Plan or the Lehman Disclosure Statement to a contract, instrument, release, indenture, agreement, or other document being in a particular form or on particular terms and conditions means that such document shall be substantially and materially in such form or substantially and materially on such terms and conditions; (h) any reference in the Lehman Plan or the Lehman Disclosure Statement to a document or schedule to the Lehman Plan, Plan

1 Documentary Supplement, or Lehman Disclosure Statement Filed or to be Filed means such  
2 document or schedule, as it may have been or may be amended, modified, or supplemented; and (i)  
3 the rules of construction set forth in section 102 of the Bankruptcy Code shall apply to the extent  
4 such rules are not inconsistent with the express terms of the Lehman Plan or the Lehman Disclosure  
5 Statement or any other provision in this Section.

6 **III.**

7 **TREATMENT OF UNCLASSIFIED CLAIMS**

8 As required by the Bankruptcy Code, the Lehman Plan places Claims and Interests into  
9 various Classes according to their right to priority. However, certain types of Claims are not  
10 classified in any Classes under the Lehman Plan and the Lehman Proponents have not placed such  
11 Claims in a Class. These Claims are "unclassified." As to Allowed Administrative Claims and  
12 Allowed Priority Tax Claims, these Claims are not considered impaired, and they do not vote on  
13 the Plan because they are automatically entitled to specific treatment provided for them in the  
14 Bankruptcy Code. Other unclassified Claims support Liens that have not been avoided, but are not  
15 classified to the extent the Claims were not timely Filed. The treatment of these unclassified  
16 Claims is as provided below.



1           **3.1    Treatment of Allowed Administrative Claims.** Except to the extent that the  
2 Holder of an Allowed Administrative Claim agrees to a different treatment, and subject to the  
3 Administrative Claim Bar Date set forth herein, the Liquidating Trustee shall pay each Allowed  
4 Administrative Claim in full, in Cash, on the later of (i) the Effective Date, (ii) within ten (10)  
5 Business Days after the date such Administrative Claim becomes an Allowed Administrative  
6 Claim, or (iii) the date such Allowed Administrative Claim becomes due according to its terms.  
7 Notwithstanding the foregoing, any Allowed Administrative Claim representing obligations  
8 incurred prior to the Effective Date in the ordinary course of post-petition business by the Plan  
9 Debtors (including without limitation post-petition trade obligations and routine post-petition  
10 payroll obligations) shall be paid in full or performed by the Liquidating Trustee in the ordinary  
11 course of business, in accordance with the terms of the particular obligation.

12                           **(a)    Treatment and Repayment of the Lehman Administrative**  
13 **Loan(s).**

14           The Lehman Administrative Loans are Allowed in the amount loaned or advanced by  
15 Lehman ALI after the commencement of the Cases net of any repayment thereof and shall be paid  
16 in Cash in full on the Effective Date, together with any interest, charges and expenses due  
17 thereupon, or shall be payable at such later time and on such terms more favorable to the  
18 Liquidating Trustee to which Lehman ALI may agree. Pending any such payment or during a  
19 period of voluntary deferral by Lehman ALI, the Lehman Administrative Loans and any interest,  
20 charges and expenses due thereupon shall continue to have a first priority Lien against the  
21 respective Assets securing such loans, including any proceeds thereof deposited in the Plan Reserve  
22 or Post-Confirmation Accounts (with the exception of the Lien for the amounts due under the  
23 Lehman Administrative Loan secured by the 10000 Santa Monica Project, which shall be  
24 subordinate to the Secured Claims and Liens arising from the SunCal Century City Loan  
25 Agreement).

26                           **(b)    Administrative Claim Bar Date.**  
27  
28

Any Administrative Claim which is subject to an Administrative Claim Bar Date and not Filed by the applicable Administrative Claim Bar Date shall be disallowed, and no distribution shall be made on account of any such Administrative Claim.

(i) **General Administrative Claim Bar Date.**

All applications for final compensation of Professionals for services rendered and for reimbursement of expenses incurred on or before the Effective Date and all other requests for payment of Administrative Claims incurred before the Effective Date under Sections 507(a)(2) or 507(b) of the Bankruptcy Code (except only for (i) post-petition, ordinary course trade obligations and routine post-petition payroll obligations incurred in the ordinary course of the Plan Debtors' postpetition business, for which no bar date shall apply, and (ii) post-petition tax obligations, for which the bar date described in the following Section shall apply) shall be Filed with the Bankruptcy Court and served upon the Liquidating Trustee no later than the General Administrative Claim Bar Date, unless such date is extended by the Bankruptcy Court after notice to the Liquidating Trustee. Any such request for payment of an Administrative Claim that is subject to the General Administrative Claim Bar Date and that is not Filed and served on or before the General Administrative Claim Bar Date shall be forever barred; any party that seeks payment of Administrative Claims that is required to File a request for payment of such Administrative Claims and does not File such a request by the deadline established herein, shall be forever barred from asserting such Administrative Claims against the Plan Debtors, the Liquidating Trustee, the Plan Debtors' Estates, or any of their properties.

(ii) **Administrative Tax Claim Bar Date.**

All requests for payment of Administrative Claims by a governmental unit for Taxes (and for interest and/or penalties related to such Taxes) for any tax year or period, all or any portion of which occurs or falls within the period from and including the applicable Petition Date through and including the Effective Date ("Administrative Tax Claims") and for which no bar date has otherwise previously been established, must be Filed and served on the Liquidating Trustee on or before the later of (i) sixty (60) days following the Effective Date; and (ii) 180 days following the filing of the tax return for such Taxes for such tax year or period with the applicable governmental

unit. Any Holder of an Administrative Tax Claim that is required to File a request for payment of such Taxes and does not File and properly serve such a request by the applicable bar date shall be forever barred from asserting any such Administrative Tax Claims against the Plan Debtors, Liquidating Trustee, Plan Debtors' Estates, or their properties.

### **3.2 Treatment of Priority Tax Claims.**

Priority Tax Claims are certain unsecured income, employment and other Taxes described by Bankruptcy Code Section 507(a)(8) and Claims, as provided in Bankruptcy Code Section 1129(a)(7)(D) which would otherwise meet such description, but for the secured status of that Claim. The Bankruptcy Code requires that each Holder of such a Priority Tax Claim receive the present value of such Claim in deferred cash payments over a period not exceeding five (5) years from the applicable Petition Date and that such treatment not be less favorable than the treatment accorded to non-priority unsecured creditors.

At the election of the Liquidating Trustee, the Holder of each Allowed Priority Tax Claim shall be entitled to receive, on account of such Claim, (i) equal cash payments on the last Business Day of each three-month period following the Effective Date, during a period not exceeding five years after November 6, 2008, totaling the principal amount of such Claim plus simple interest on any unpaid balance from the Effective Date, calculated at the interest rate available on ninety (90) day United States Treasuries on the Effective Date, (ii) such other treatment agreed to by the Holder of the Allowed Priority Tax Claim and the Liquidating Trustee, provided such treatment is on more favorable terms to the applicable Plan Debtor's Estate than the treatment set forth in clause (i) hereof, or (iii) payment of the full Allowed Priority Tax Claim in Cash on the Effective Date.

### **3.3 Treatment of Unavoided Liens Securing Claims That Are Not Allowed.**

Unless the Holder thereof objects and other treatment, consistent with the Bankruptcy Code, is agreed upon or is permitted upon order of the Bankruptcy Court with respect to such Lien or Claim, if there is a Lien that cannot be avoided even though the Claim it secures is not Allowed, then the Lien shall continue in force, be transferred or be released and extinguished on and after the Effective Date in the same manner and to the same extent as if the Claim were an Allowed Secured Claim and any such Claim it secures shall be treated on and after the Effective Date as if it were an

Allowed Claim. The Lehman Lenders consent to such treatment.

#### IV.

### **CLASSIFICATION OF CLAIMS AND INTERESTS**

As required by the Bankruptcy Code, the Lehman Plan places Claims and Interests into various Classes according to their right to priority and other relative rights. This Plan specifies whether each Class of Claims or Interests is impaired or unimpaired, and the Lehman Plan sets forth the treatment each Class will receive. The table below lists the Classes of Claims established under the Lehman Plan and states whether each particular Class is impaired or left unimpaired by the Lehman Plan. A Class is "unimpaired" if the Lehman Plan leaves unaltered the legal, equitable and contractual rights to which the Holders of Claims or Interests in the Class are entitled, with certain exceptions specified in the Bankruptcy Code.

For voting purposes and to comply with Bankruptcy Code section 1122(a), each Allowed Secured Claim shall be deemed to be in its own subclass even if not expressly designated as such. Further, in the event that any alleged Secured Claim is not, or only is partially, Allowed as a Secured Claim, the deficiency amount will constitute a Class 7 or Class 8 Claim against the applicable Plan Debtor, as appropriate, and will receive the same treatment as provided to other Claims in Class 7 or Class 8 of such Plan Debtor, as appropriate.

THE INVESTIGATION OF CLAIMS AND INTERESTS IS NOT YET COMPLETE, AND THEIR LISTING HEREIN OR IN THE TABLES BELOW SHOULD NOT BE CONSTRUED AS PROVIDING FOR ALLOWANCE UNDER THE PLAN EXCEPT AS EXPRESSLY SET FORTH FOR THE PARTICULAR CLAIM.

<b>CLASS 1: CLASSIFICATION OF ALLOWED SECURED REAL PROPERTY TAX CLAIMS</b>		<b>Class 1 is Unimpaired</b>	<b>Class 1 Claim Holders are Not Entitled to Vote</b>
<u>Class</u>	<u>Claims</u>	<u>Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof Filed and Number)</u>	
Class 1.1	Secured Real Property Tax Claim of Los Angeles County against the Ritter Ranch Project	Palmdale Hills; Palmdale Hills 12	

CLASS 1: CLASSIFICATION OF ALLOWED SECURED REAL PROPERTY TAX CLAIMS	Class 1 is Unimpaired	Class 1 Claim Holders are Not Entitled to Vote
Class 1.2	Secured Real Property Tax Claim of Los Angeles County against the Acton Project in the amount of \$200	Acton Estates; Acton Estates 1
Class 1.3	Secured Real Property Tax Claim of Riverside County against the Emerald Meadows Project in the amount of \$284	Emerald Meadows; Emerald Meadows 9
Class 1.4	Secured Real Property Tax Claim of Placer County against the Bickford Ranch Project	SunCal Bickford; SunCal Bickford Scheduled Amount
Class 1.5	Secured Real Property Tax Claim of Contra Costa County against the Delta Coves Project in the amount of \$609,221.	Delta Coves; Delta Coves 16
Class 1.6	Secured Real Property Tax Claim of Riverside County against the Heartland Project in the amount of \$559,022.	SunCal Heartland; SunCal Heartland 5
Class 1.7	Secured Real Property Tax Claim of Orange County against the Marblehead Project in the amount of \$379,156.	SunCal Marblehead; SunCal Marblehead 49 and 57
Class 1.8	Secured Real Property Tax Claim of Los Angeles County against the Northlake Project in the amount of \$1,189,919.	SunCal Northlake; SunCal Northlake Scheduled Amount
Class 1.9	Secured Real Property Tax Claim of Riverside County against the Oak Valley Project in the amount of \$280,280.	SunCal Oak Valley; SunCal Oak Valley 9
Class 1.10	Secured Real Property Tax Claim of Los Angeles County against the 10000 Santa Monica Project in the amount of \$1,407,212.	SunCal Century City; SunCal Century City 4
Class 1.11	Secured Real Property Tax Claim of San Bernardino County against the Palm Springs Village Project in the amount of \$589,367.	SunCal PSV; SunCal PSV 22
Class 1.12	Secured Real Property Tax Claim (disputed) of Alameda County against the Oak Knoll Project in the amount of \$2,356,035.	SunCal Oak Knoll; SunCal Oak Knoll 22, 23 and 24
Class 1.13	Secured Real Property Tax Claim of Los Angeles County against the Tesoro Project in the amount of \$70,239.	Tesoro; Tesoro 2
Class 1.14	Secured Real Property Tax Claim of San Bernardino County against the Joshua Ridge Project in the amount of \$5,900.	SCC Communities; SCC Communities Scheduled Amount
Class 1.15	Secured Real Property Tax Claim of Placer County against the Summit Valley Project in the amount of \$ 504,245.	SunCal Summit Valley; Palmdale Hills 97
Class 1.16	Secured Real Property Tax Claim of San Bernardino County against the Summit Valley Project in the amount of \$69,530.	SunCal Summit Valley; SunCal Summit Valley Scheduled Amount

<b>CLASS 1: CLASSIFICATION OF ALLOWED SECURED REAL PROPERTY TAX CLAIMS</b>		<b>Class 1 is Unimpaired</b>	<b>Class 1 Claim Holders are Not Entitled to Vote</b>
Class 1.17	Secured Real Property Tax Claim of Riverside County against the Beaumont Project in the amount of \$365,954.		SunCal Beaumont; SunCal Beaumont 9
Class 1.18	Secured Real Property Tax Claim of Stanislaus County against the Johannson Ranch Project in the amount of \$75,106.		SunCal Johannson; SunCal Johannson Scheduled Amount
Class 1.19	Secured Real Property Tax Claim of San Bernardino County against Seven Brothers' property in the amount of \$60,828.		Seven Brothers; Seven Brothers Scheduled Amount
Class 1.20	Secured Real Property Tax Claim of San Bernardino County against the property Kirby Estates' property in the amount of \$1,744.		Kirby Estates; Kirby Estates Scheduled Amount

<b>CLASS 2: CLASSIFICATION OF LEHMAN SECURED CLAIMS</b>		<b>Class 2 is Impaired</b>	<b>Class 2 Claim Holders are Entitled to Vote</b>
<u>Class</u>	<u>Claims</u>	<u>Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof Filed and Number).</u>	
	<b><u>SunCal Communities I Loan Agreement</u></b>		
Class 2.1	Allowed Secured Claim of Lehman Commercial or its assignee or successor against SunCal I arising from the SunCal Communities I Loan Agreement in the Allowed Amount of \$343,221,391.06.	SunCal I; SunCal I: 1	
Class 2.2	Allowed Secured Claim of Lehman Commercial or its assignee or successor against Acton Estates arising from the SunCal Communities I Loan Agreement in the Allowed Amount of \$343,221,391.06.	Acton Estates; Acton Estates: 6	
Class 2.3	Allowed Secured Claim of Lehman Commercial or its assignee or successor against SunCal Emerald arising from the SunCal Communities I Loan Agreement in the Allowed Amount of \$343,221,391.06.	SunCal Emerald; SunCal Emerald: 7	
Class 2.4	Allowed Secured Claim of Lehman Commercial or its assignee or successor against SunCal Bickford arising from the SunCal Communities I Loan Agreement in the Allowed Amount of \$343,221,391.06.	SunCal Bickford; SunCal Bickford: 16	

CLASS 2: CLASSIFICATION OF LEHMAN SECURED CLAIMS	Class 2 is Impaired	Class 2 Claim Holders are Entitled to Vote
<u>Class</u>	<u>Claims</u>	<u>Plan Debtor and Basis for Claim</u> (i.e., Scheduled Amount or Case in Which Proof Filed and Number).
Class 2.5	Allowed Secured Claim of Lehman Commercial or its assignee or successor against SunCal Summit Valley arising from SunCal Communities I Loan Agreement in the Allowed Amount of \$343,221,391.06.	SunCal Summit Valley; SunCal Summit Valley: 12
	<b><u>Ritter Ranch Loan Agreement</u></b>	
Class 2.6	Allowed Secured Claim of Lehman Commercial or its assignee or successor against Palmdale Hills arising from the Ritter Ranch Loan Agreement in the Allowed Amount of \$287,252,096.31.	Palmdale Hills; Palmdale Hills 65
	<b><u>SCC Palmdale Loan Agreement</u></b>	
Class 2.7	Allowed Secured Claim of Lehman Commercial or its assignee or successor against SCC Palmdale arising from the SCC Palmdale Loan Agreement in the Allowed Amount of \$119,664,305.25.	SCC Palmdale; SCC Palmdale 1
	<b><u>Bickford Second Lien Loan Agreement</u></b>	
Class 2.8	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal Bickford arising from the Bickford Second Loan Agreement in the Allowed Amount of \$56,494,059.38.	SunCal Bickford; SunCal Bickford 17
	<b><u>Interim Loan Agreement</u></b>	
Class 2.9	Allowed Secured Claim of Lehman ALI or its assignee or successor against SCC Communities, arising from the Interim Loan Agreement in the Allowed Amount of \$23,795,012.59.	SCC Communities; SCC Communities: 9
Class 2.10	Allowed Secured Claim of Lehman ALI or its assignee or successor against Del Rio arising from the Interim Loan Agreement in the Allowed Amount of \$23,795,012.59.	Del Rio; Del Rio: 14
Class 2.11	Allowed Secured Claim of Lehman ALI or its assignee or successor against Tesoro arising from the Interim Loan in the Allowed Amount of \$23,795,012.59.	Tesoro; Tesoro: 7
	<b><u>SunCal Oak Knoll/SunCal Torrance Loan Agreement</u></b>	

CLASS 2: CLASSIFICATION OF LEHMAN SECURED CLAIMS	Class 2 is Impaired	Class 2 Claim Holders are Entitled to Vote
<u>Class</u>	<u>Claims</u>	<u>Plan Debtor and Basis for Claim</u> (i.e., Scheduled Amount or Case in Which Proof Filed and Number).
Class 2.12	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal Oak Knoll arising from the SunCal Oak Knoll/SunCal Torrance Loan Agreement in the Allowed Amount of \$158,141,364.64.	SunCal Oak Knoll; SunCal Oak Knoll: 12
Class 2.13	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal Torrance arising from the SunCal Oak Knoll/SunCal Torrance Agreement in the Allowed Amount of \$157,870,186.15.	SunCal Torrance; SunCal Torrance: 4
	<b><u>Delta Coves Loan Agreement</u></b>	
Class 2.14	Allowed Secured Claim of Lehman ALI or its assignee or successor against Delta Coves arising from the Delta Coves Loan Agreement in the Allowed Amount of \$206,023,142.48.	Delta Coves; Delta Coves 21
	<b><u>SunCal Marblehead / SunCal Heartland Loan Agreement</u></b>	
Class 2.15	Allowed Secured Claim of Lehman ALI against SunCal Marblehead arising from the SunCal Marblehead / SunCal Heartland Loan Agreement in the Allowed Amount of \$354,325,126.15.	SunCal Heartland; SunCal Heartland: 9
Class 2.16	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal Heartland arising from the SunCal Marblehead / SunCal Heartland Loan Agreement in the Allowed Amount of \$354,325,126.15.	SunCal Marblehead; SunCal Marblehead: 21
	<b><u>SunCal Oak Valley Loan Agreement</u></b>	
Class 2.17	Allowed Secured Claim of OVC Holdings or its assignee or successor against SunCal Oak Valley arising from the SunCal Oak Valley Loan Agreement in the Allowed Amount of \$141,630,091.63.	SunCal Oak Valley; SunCal Oak Valley 16
	<b><u>SunCal Northlake Loan Agreement</u></b>	
Class 2.18	Allowed Secured Claim of Northlake Holdings or its assignee or successor against SunCal Northlake arising from the Northlake Loan Agreement in the Allowed Amount of \$123,654,776.88.	SunCal Northlake; SunCal Northlake 6
	<b><u>SunCal PSV Loan Agreement</u></b>	



<b>CLASS 2: CLASSIFICATION OF LEHMAN SECURED CLAIMS</b>			<b>Class 2 is Impaired</b>	<b>Class 2 Claim Holders are Entitled to Vote</b>
<u>Class</u>	<u>Claims</u>	<u>Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof Filed and Number).</u>		
Class 2.19	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal PSV arising from the SunCal PSV Loan Agreement in the Allowed Amount of \$88,257,340.20.	SunCal PSV; SunCal PSV 12		
<b>CLASS 3: CLASSIFICATION OF ALLOWED DANSKE SECURED CLAIM</b>			<b>Class 3 is Impaired</b>	<b>The Class 3 Claim Holder is Entitled to Vote</b>
Class	Claims	<u>Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof Filed and Number).</u>		
Class 3.1	Secured Claim of Danske Bank against SunCal Century City arising from the SunCal Century City Loan Agreement, in the Allowed Amount of \$120,000,000 .	SunCal Century; City SunCal Century City 17		
<b>CLASS 4: CLASSIFICATION OF ALLOWED OTHER SECURED CLAIMS</b>			<b>Class 4 is Unimpaired</b>	<b>Class 4 Claim Holders are Not Entitled to Vote</b>
Class	Claims	<u>Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof of Claim Filed and Number)</u>		
Class 4.1	Secured Claim of, or formerly of, Yen Chu Chang Dou, et al. pursuant to first-priority deed of trust against certain portions of the Beaumont Heights Project in the amount of \$3,173,499.50.	SunCal Beaumont; SunCal Beaumont 3		
Class 4.2	Secured Claim of, or formerly of, Cheryl M. Mims pursuant to a first-priority deed of trust against certain portions of the Beaumont Heights Project in the amount of \$136,229.	SunCal Beaumont; Palmdale Hills 101		
Class 4.3	Secured Claim of, or formerly of, William L & Kathleen Ward pursuant to a first-priority deed of trust against certain portions of the Beaumont Heights Project in the amount of \$130,000.	SunCal Beaumont; SunCal Beaumont [__]		
Class 4.4	Secured Claim of, or formerly of, Scott McDaniel pursuant to a first-priority deed of trust against certain portions of Beaumont Heights Project in the amount of \$535,000.	SunCal Beaumont; Palmdale Hills 20		

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	<b>CLASS 4: CLASSIFICATION OF ALLOWED OTHER SECURED CLAIMS</b>		<b>Class 4 is Unimpaired</b>	<b>Class 4 Claim Holders are Not Entitled to Vote</b>
	Class	Claims		Plan Debtor and Basis for Claim ( <i>i.e.</i> , Scheduled Amount or Case in Which Proof of Claim Filed and Number)
	Class 4.5	Secured Claim of, or formerly of, Wayne & Francis Lee pursuant to a first-priority deed of trust against certain portions of the Beaumont Heights Project in the amount of \$650,000.		SunCal Beaumont; SunCal Beaumont [ ]
	Class 4.6	Secured Claim of, or formerly of, Marie B. Stanford pursuant to a first-priority deed of trust against certain portions of Beaumont Heights Project in the amount of \$154,742.		SunCal Beaumont; SunCal Beaumont 6
	Class 4.7	Secured Claim of, or formerly of, Patricia I Volkerts pursuant to a first-priority deed of trust against certain portions of Beaumont Heights Project in the amount of \$871,703.		SunCal Beaumont; Palmdale Hills 11
	Class 4.8	Secured Claim of, or formerly of, Arleen Logan pursuant to a first-priority deed of trust against certain portions of the Summit Valley Project in the amount of \$668,250.		SunCal Summit Valley; SunCal Summit Valley 5
	Class 4.9	Secured Claim of, or formerly of, K Square pursuant to a first-priority deed of trust Properties Inc. against certain portions of the Summit Valley Project in the amount of \$200,000.		SunCal Summit Valley; SunCal Summit Valley [ ]
	Class 4.10	Secured Claim of, or formerly of, Leslie Quigg & Betty Quigg pursuant to a first-priority deed of trust against certain portions of the Summit Valley Project in the amount of \$1,246,500.		SunCal Summit Valley; SunCal Summit Valley [ ]
	Class 4.11	Secured Claim of, or formerly of, Jerry Wong Scheduled Amount & Rosalie Wong, Inc. pursuant to a first-priority deed of trust against certain portions of the Summit Valley Project in the amount of \$390,000.		SunCal Summit Valley; SunCal Summit Valley [ ]
	Class 4.12	Secured Claim of, or formerly of, Cheltimalie Enterprises pursuant to a first-priority deed of trust against certain portions of the Summit Valley Project owned by Seven Brothers in the amount of \$1,388,156.		Seven Brothers; SunCal Summit 17

1	<b>CLASS 4: CLASSIFICATION OF ALLOWED OTHER SECURED CLAIMS</b>		<b>Class 4 is Unimpaired</b>	<b>Class 4 Claim Holders are Not Entitled to Vote</b>
2	Class	Claims		Plan Debtor and Basis for Claim ( <i>i.e.</i> , Scheduled Amount or Case in Which Proof of Claim Filed and Number)
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6	Class 4.13	Secured Claim of, or formerly of, Philip C. Dowse and Vera G. Dowse pursuant to a first-priority deed of trust against certain portions of the Summit Valley Project owned by Seven Brothers in the amount of \$296,910.		Seven Brothers; Seven Brothers [__]
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9	Class 4.14	Secured Claim of, or formerly of, Philip C. Dowse pursuant to a first-priority deed of trust against certain portions of the Summit Valley Project owned by Seven Brothers in the amount of \$880,000.		Seven Brothers; Seven Brothers [__]
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13	Class 4.15	Secured Claim of, or formerly of, Desert Wind, LLC pursuant to a first -priority deed of trust against certain portions of the Summit Valley Project owned by Seven Brothers in the amount of \$862,000.		Seven Brothers; Seven Brothers [__]
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<b>CLASS 5: CLASSIFICATION OF ALLOWED MECHANIC'S LIEN CLAIMS</b>		<b>Class 5 is Unimpaired</b>	<b>Class 5 Claim Holders are Not Entitled to Vote</b>
Class	Claims	<u>Plan Debtor and Basis for Claim</u> (i.e., Scheduled Amount or Case in Which Proof Filed and Number)	
Class 5.1	Mechanic's Lien Claim of Asphalt Professionals or its assignee or successor against the Ritter Ranch Project owned by Palmdale Hills in the amount of \$38,249.	Palmdale Hills; Palmdale Hills 1 and 46	
Class 5.2	Mechanic's Lien Claim of Sierra Cascade Construction or its assignee or successor against the Ritter Ranch Project owned by Palmdale Hills in the amount of \$550,677.	Palmdale Hills; Palmdale Hills 33	
Class 5.3	Mechanic's Lien Claim of Staats Construction, Inc. or its assignee or successor against the Ritter Ranch Project owned by Palmdale Hills in the amount of \$166,105.	Palmdale Hills; Palmdale Hills 51	
Class 5.4	Mechanic's Lien Claim of Southland Farmers, Inc. or its assignee or successor against the Ritter Ranch Project owned by Palmdale Hills in the amount of \$177,801.	Palmdale Hills; Palmdale Hills 55, 67 and 68	
Class 5.5	Mechanic's Lien Claim of Pinnick, Inc. or its assignee or successor against the Ritter Ranch Project owned by Palmdale Hills in the amount of \$1,530,146.	Palmdale Hills; Palmdale Hills 62, 63 and 64	
Class 5.6	Mechanic's Lien Claim of Chameleon Design Inc. or its assignee or successor against the Ritter Ranch Project owned by Palmdale Hills in the amount of \$73,600.	Palmdale Hills; Palmdale Hills 93, 99	
Class 5.7	Mechanic's Lien Claim of Hall & Foreman, Inc. or its assignee or successor against the Emerald Meadows Project in the amount of \$287,727.	SunCal Emerald; SunCal Emerald 13	
Class 5.8	Mechanic's Lien Claim of Proactive Engineering or its assignee or successor against the Emerald Meadows Project in the amount of \$991,315.	SunCal Emerald; SunCal Emerald 15 and 16	
Class 5.9	Mechanic's Lien Claim of HD Supply Construction or its assignee or successor against the Ritter Ranch Project owned by Palmdale Hills in the amount of \$14,893.	Palmdale Hills; Palmdale Hills 15	
Class 5.10	Mechanic's Lien Claim of MHM Engineers or its assignee or successor against the Bickford Ranch Project in the amount of \$8,916.	SunCal Bickford; SunCal Bickford 5	
Class 5.11	Mechanic's Lien Claim of Land Architecture or its assignee or successor against the Bickford Ranch Project in the amount of \$100,245.	SunCal Bickford; SunCal Bickford 6	

CLASS 5: CLASSIFICATION OF ALLOWED MECHANIC'S LIEN CLAIMS	Class 5 is Unimpaired	Class 5 Claim Holders are Not Entitled to Vote
Class	Claims	<u>Plan Debtor and Basis for Claim</u> (i.e., Scheduled Amount or Case in Which Proof Filed and Number)
Class 5.12	Mechanic's Lien Claim of Kiewit Pacific Co. or its assignee or successor against the Bickford Ranch Project in the amount of \$1,868,357.	SunCal Bickford; SunCal Bickford 10
Class 5.13	Mechanic's Lien Claim of ARB, Inc. or its assignee or successor against the Bickford Ranch Project in the amount of \$1,052,272.	SunCal Bickford; SunCal Bickford 15
Class 5.14	Mechanic's Lien Claim of Independent Construction or its assignee or successor against the Bickford Ranch Project in the amount of \$117,209.	SunCal Bickford; SunCal Bickford 28
Class 5.15	Mechanic's Lien Claim of Marques Pipeline, Inc. or its assignee or successor against the Bickford Ranch Project in the amount of \$330,118.	SunCal Bickford; SunCal Bickford 29 and 30
Class 5.16	Mechanic's Lien Claim of Pacific Soils Engineering or its assignee or successor against the portion of the Summit Valley Project owned by Summit Valley in the amount of \$16,827.	SunCal Summit Valley; SunCal Summit Valley 9
Class 5.17	Mechanic's Lien Class of, or formerly of, Hertz Equipment Rental Corporation or its assignee or successor against the Delta Coves Project in the amount of \$25,444.	Delta Coves; Delta Coves 2
Class 5.18	Mechanic's Lien Claim of MBH Architects or its assignee or successor against the Delta Coves Project in the amount of \$97,091.	Delta Coves; Delta Coves 8
Class 5.19	Mechanic's Lien Claim of HD Supply Construction or its assignee or successor against the Heartland Project in the amount of \$47,675.	SunCal Heartland; SunCal Heartland 2
Class 5.20	Mechanic's Lien Claim of Pinnick, Inc. or its assignee or successor against the Heartland Project in the amount of \$563,159.	SunCal Heartland; SunCal Heartland 8
Class 5.21	Mechanic's Lien Claim of Dennis M. McCoy & Sons or its assignee or successor against the Heartland Project in the amount of \$941,960.	SunCal Heartland; SunCal Heartland 16
Class 5.22	Mechanic's Lien Claim of SunCal Marblehead by Trimax Systems, Inc. or its assignee or successor against the Marblehead Project in the amount of \$75,286.	SunCal Marblehead; SunCal Marblehead 3
Class 5.23	Mechanic's Lien Claim of Butsko Utility Design, Inc. or its assignee or successor against the Marblehead Project in the amount of \$6,250.	SunCal Marblehead; SunCal Marblehead 4

CLASS 5: CLASSIFICATION OF ALLOWED MECHANIC'S LIEN CLAIMS	Class 5 is Unimpaired	Class 5 Claim Holders are Not Entitled to Vote
Class	Claims	<u>Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof Filed and Number)</u>
Class 5.24	Mechanic's Lien Claim of Dennis RMF Contracting, Inc. or its assignee or successor against the Marblehead Project in the amount of \$264,749.	SunCal Marblehead; SunCal Marblehead 28
Class 5.25	Mechanic's Lien Claim of The Jasper Companies or its assignee or successor against the Marblehead Project in the amount of \$165,260.	SunCal Marblehead; SunCal Marblehead 29
Class 5.26	Mechanic's Lien Claim of Kirk Negrete, Inc. dba United Steel Placers or its assignee or successor against the Marblehead Project in the amount of \$270,056.	SunCal Marblehead; SunCal Marblehead 38
Class 5.27	Mechanic's Lien Claim of RBF Consulting or its assignee or successor against the Marblehead Project in the amount of \$7,096.	SunCal Marblehead; SunCal Marblehead 39
Class 5.28	Mechanic's Lien Claim of RJ Noble Co. or its assignee or successor against the Marblehead Project in the amount of \$175,030.	SunCal Marblehead; SunCal Marblehead 42, 50 and 58
Class 5.29	Mechanic's Lien Claim of Orange County Stripping Services or its assignee or successor against the Marblehead Project in the amount of \$4,400.	SunCal Marblehead; SunCal Marblehead 46 and 54
Class 5.30	Mechanic's Lien Claim of Savala Equipment Co. Inc. or its assignee or successor against the Marblehead Project in the amount of \$34,440.\	SunCal Marblehead; SunCal Marblehead 48 and 56
Class 5.31	Mechanic's Lien Claim of Rockey Murata Landscaping or its assignee or successor against the Marblehead Project in the amount of \$285,643.	SunCal Marblehead; SunCal Marblehead 60
Class 5.32	Mechanic's Lien Claim of HD Supply Construction or its assignee or successor against the Oak Valley Project in the amount of \$52,806.	SunCal Oak Valley; SunCal Oak Valley 3
Class 5.33	Mechanic's Lien Claim of Pinnik Inc. or its assignee or successor against the Oak Valley Project in the amount of \$966,987.	SunCal Oak Valley; SunCal Oak Valley 12 and 14
Class 5.34	Mechanic's Lien Claim of Hillcrest Contracting Inc. or its assignee or successor against the Oak Valley Project in the amount of \$136,567.	SunCal Oak Valley; SunCal Oak Valley 223
Class 5.35	Mechanic's Lien Claim of MacKenzie Landscape or its assignee or successor against the Oak Valley Project in the amount of \$121,297.	SunCal Oak Valley; SunCal Oak Valley 25
Class 5.36	Mechanic's Lien Claim of All American Asphalt or its assignee or successor against the Oak Valley Project in the amount of \$60,355.	SunCal Oak Valley; SunCal Oak Valley 26

CLASS 5: CLASSIFICATION OF ALLOWED MECHANIC'S LIEN CLAIMS	Class 5 is Unimpaired	Class 5 Claim Holders are Not Entitled to Vote
Class	Claims	<u>Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof Filed and Number)</u>
Class 5.37	Mechanic's Lien Claim of Los Angeles Times or its assignee or successor against the Oak Valley Project in the amount of \$43,610.	SunCal Oak Valley; SunCal Oak Valley 31 and 32
Class 5.38	Mechanic's Lien Claim of Proactive Engineering or its assignee or successor against the Oak Valley Project in the amount of \$280,685.	SunCal Oak Valley; SunCal Oak Valley 35 and 36
Class 5.39	Mechanic's Lien Claim of Ateliers Jean Nouvel or its assignee or successor against the 10000 Santa Monica Project in the amount of \$1,110,000.	SunCal Century City; SunCal Century City 15
Class 5.40	Mechanic's Lien Claim of Englekirk & Sabol Construction Structure Engineering or its assignee or successor against the 10000 Santa Monica Project in the amount of \$324,520.	SunCal Century City SunCal Century City 12
Class 5.41	Mechanic's Lien Claim of Brudvik Inc. or its assignee or successor against the Palm Springs Village Project in the amount of \$43,365.	SunCal PSV; SunCal PSV 4
Class 5.42	Mechanic's Lien Claim of Larry Jacinto Construction Inc. or its assignee or successor against the Palm Springs Village Project in the amount of \$212,663.	SunCal PSV; SunCal PSV 5 and 24
Class 5.43	Mechanic's Lien Claim of William + Paddon Architects + Planners Inc. or its assignee or successor against the Palm Springs Village Project in the amount of \$73,798.	SunCal PSV; SunCal PSV 9 and 10
Class 5.44	Mechanic's Lien Claim of Southern California Edison or its assignee or successor against the Palm Springs Village Project in the amount of \$23,861.	SunCal PSV; SunCal PSV 26
Class 5.45	Mechanic's Lien Claim of Pacific Masonry Walls, Inc. or its assignee or successor against the Palm Springs Village Project in the amount of \$314,061.	SunCal PSV; SunCal PSV 33 and 39
Class 5.46	Mechanic's Lien Claim of J.R. Simplot Company or its assignee or successor against the Palm Springs Village Project in the amount of \$3,467.	SunCal PSV; SunCal PSV 34 and 40
Class 5.47	Mechanic's Lien Claim of Desert Pipeline Inc. or its assignee or successor against the Palm Springs Village Project in the amount of \$469,784.	SunCal PSV; SunCal PSV 36, 42 and 47
Class 5.48	Mechanic's Lien Claim of MSA Consulting or its assignee or successor against the Palm Springs Village Project in the amount of \$666,897.	SunCal PSV; SunCal PSV 43
Class 5.49	Mechanic's Lien Claim of Jackson DeMarco or its assignee or successor against the Palm Springs Village Project in the amount of \$52,234.	SunCal PSV; SunCal PSV 45

CLASS 5: CLASSIFICATION OF ALLOWED MECHANIC’S LIEN CLAIMS		Class 5 is Unimpaired	Class 5 Claim Holders are Not Entitled to Vote
Class	Claims	Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof Filed and Number)	
Class 5.50	Mechanic’s Lien Claim of Oliphant Gold, Inc. or its assignee or successor against the Oak Knoll Project in the amount of \$456,476.	SunCal Oak Knoll; SunCal Oak Knoll 46	
Class 5.51	Mechanic’s Lien Claim of RGA Environmental, Inc. or its assignee or successor against the Oak Knoll Project in the amount of \$75,617.	SunCal Oak Knoll; SunCal Oak Knoll 1	
Class 5.52	Mechanic’s Lien Claim of BKF Engineers or its assignee or successor against the Oak Knoll Project in the amount of \$308,817.	SunCal Oak Knoll; SunCal Oak Knoll 2 and 19	
Class 5.53	Mechanic’s Lien Claim of CST Environmental Inc. or its assignee or successor against the Oak Knoll Project in the amount of \$4,316,169.	SunCal Oak Knoll; SunCal Oak Knoll 4 and 9	
Class 5.54	Mechanic’s Lien Claim of Proactive Engineering or its assignee or successor against the Beaumont Heights Project in the amount of \$46,188.	SunCal Beaumont; SunCal Beaumont 11 and 12	
CLASS 6: CLASSIFICATION OF ALLOWED PRIORITY CLAIMS		Class 6 is Unimpaired	Class 6 Claim Holders are Not Entitled to Vote
Class	Claims	Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof Filed and Number)	
Class 6.1	Priority Claims against SunCal Marblehead (alleged amount - \$10,950).	SunCal Marblehead; SunCal Marblehead Scheduled Amount and SunCal Marblehead 45	
Class 6.2	Priority Claims against SunCal Oak Knoll (alleged amount - \$235).	SunCal Oak Knoll; SunCal Oak Knoll 26	
Class 6.3	Priority Claims against Palmdale Hills (alleged amount - \$10,950).	Palmdale Hills; Palmdale Hills 70	
Class 6.4	Priority Claims against SJD Partners (alleged amount - \$4,188).	SJD Partners; SJD Partners Scheduled Amount and SJD Partners 12	
CLASS 7: CLASSIFICATION OF ALLOWED GENERAL UNSECURED CLAIMS		Class 7 is Impaired	Class 7 Claim Holders are Entitled to Vote
Class	Claims	Plan Debtor	
Class 7.1	General Unsecured Claims	Palmdale Hills	



CLASS 7: CLASSIFICATION OF ALLOWED GENERAL UNSECURED CLAIMS		Class 7 is Impaired	Class 7 Claim Holders are Entitled to Vote
Class	Claims		Plan Debtor
Class 7.2	General Unsecured Claims		Del Rio
Class 7.3	General Unsecured Claims		SunCal Beaumont
Class 7.4	General Unsecured Claims		SunCal Emerald
Class 7.5	General Unsecured Claims		SunCal Johannson
Class 7.6	General Unsecured Claims		SunCal Summit Valley
Class 7.7	General Unsecured Claims		Acton Estates
Class 7.8	General Unsecured Claims		Delta Coves
Class 7.9	General Unsecured Claims		SunCal Heartland
Class 7.10	General Unsecured Claims		SunCal Marblehead
Class 7.11	General Unsecured Claims		SJD Partners
Class 7.12	General Unsecured Claims		SunCal Century City
Class 7.13	General Unsecured Claims		SunCal Northlake
Class 7.14	General Unsecured Claims		SunCal Oak Knoll
Class 7.15	General Unsecured Claims		SunCal Oak Valley
Class 7.16	General Unsecured Claims		SunCal PSV
Class 7.17	General Unsecured Claims		SunCal Torrance
Class 7.18	General Unsecured Claims		SCC Communities
Class 7.19	General Unsecured Claims		Tesoro
Class 7.20	General Unsecured Claims		SunCal Bickford
Class 7.21	General Unsecured Claims		SunCal I
Class 7.22	General Unsecured Claims		Seven Brothers
Class 7.23	General Unsecured Claims		Kirby Estates
Class 7.24	General Unsecured Claims		SCC Palmdale

CLASS 8: CLASSIFICATION OF ALLOWED ES CLAIMS		Class 8 is Impaired	Class 8 Claim Holders are Entitled to Vote
Class	Claims	<u>Plan Debtor and Basis for Claims</u>	
Class 8.1	ES Claims	Palmdale Hills	
Class 8.2	ES Claims	Del Rio - Various Filed and Scheduled	
Class 8.3	ES Claims	SunCal Emerald - Various Filed and Scheduled	
Class 8.4	ES Claims	SunCal Summit Valley - Various Filed and Scheduled	
Class 8.5	ES Claims	Acton Estates - Various Filed and Scheduled	
Class 8.6	ES Claims	Delta Coves - Various Filed and Scheduled	
Class 8.7	ES Claims	SunCal Heartland - Various Filed and Scheduled	
Class 8.8	ES Claims	SunCal Marblehead - Various Filed and Scheduled	
Class 8.9	ES Claims	SJD Partners - Various Filed and Scheduled	
Class 8.10	ES Claims	SunCal Northlake - Various Filed and Scheduled	
Class 8.11	ES Claims	SunCal Oak Knoll - Various Filed and Scheduled	
Class 8.12	ES Claims	SunCal Oak Valley - Various Filed and Scheduled	
Class 8.13	ES Claims	SunCal PSV - Various Filed and Scheduled	
Class 8.14	ES Claims	SunCal Torrance - Various Filed and Scheduled	
Class 8.15	ES Claims	SCC Communities - Various Filed and Scheduled	
Class 8.16	ES Claims	Tesoro - Various Filed and Scheduled	
Class 8.17	ES Claims	SunCal Bickford - Various Filed and Scheduled	
Class 8.18	ES Claims	SunCal I	

CLASS 8: CLASSIFICATION OF ALLOWED ES CLAIMS		Class 8 is Impaired	Class 8 Claim Holders are Entitled to Vote
Class	Claims	Plan Debtor and Basis for Claims	
Class 8.19	ES Claims	SCC Palmdale	

  

CLASS 9: CLASSIFICATION OF ALLOWED INTERESTS	Class 9 is Impaired	Class 9 Interest Holders are Deemed to Reject the Plan and are Not Entitled to Vote	
Class	Interests (and alleged Holders)	Plan Debtor and Basis for Interests	
Class 9.1	Interests in Palmdale Hills (of SCC Palmdale).	Palmdale Hills Scheduled	
Class 9.2	Interests in Del Rio (of SCC LLC).	Del Rio Scheduled	
Class 9.3	Interests in SunCal Beaumont (of SunCal I).	SunCal Beaumont Scheduled	
Class 9.4	Interests in SunCal Emerald (of SunCal I).	SunCal Emerald Scheduled	
Class 9.5	Interests in SunCal Johannson (of SunCal I).	SunCal Johannson Scheduled	
Class 9.6	Interests in SunCal Summit Valley (of SunCal I).	SunCal Summit Valley Scheduled	
Class 9.7	Interests in Acton Estates (of SunCal I).	Acton Estates Scheduled	
Class 9.8	Interests in Delta Coves (of Delta Coves Member LLC).	Delta Coves Scheduled	
Class 9.9	Interests in SunCal Heartland (of SunCal Marblehead Heartland Master LLC).	SunCal Heartland Scheduled	
Class 9.10	Interests in SunCal Marblehead (of SunCal Marblehead Heartland Master LLC).	SunCal Marblehead Scheduled	
Class 9.11	Interests in SJD Partners (of, <i>inter alia</i> , SJD Development).	SJD Partners Scheduled	
Class 9.12	Interests in SunCal Century City (of SunCal Century City Member LLC).	SunCal Century City Scheduled	
Class 9.13	Interests in SunCal Northlake (of SCLV Northlake, LLC and SCC/Northlake, LLC).	SunCal Northlake Scheduled	

CLASS 9: CLASSIFICATION OF ALLOWED INTERESTS	Class 9 is Impaired	Class 9 Interest Holders are Deemed to Reject the Plan and are Not Entitled to Vote
Class	Interests (and alleged Holders)	<u>Plan Debtor and Basis for Interests</u>
Class 9.14	Interests in SunCal Oak Knoll (of Lehman SunCal Real Estate Holdings LLC).	SunCal Oak Knoll Scheduled
Class 9.15	Interests in SunCal Oak Valley (of SCLV Oak Valley LLC and SCC/Oak Valley, LLC).	SunCal Oak Valley Scheduled
Class 9.16	Interests in SunCal PSV (of Lehman SunCal PSV Holdings LLC).	SunCal PSV Scheduled
Class 9.17	Interests in SunCal Torrance (of Lehman SunCal Real Estate Holdings LLC).	SunCal Torrance Scheduled
Class 9.18	Interests in SCC Communities (of SCC LLC).	SCC Communities Scheduled
Class 9.19	Interests in Tesoro (of SCC LLC).	Tesoro Scheduled
Class 9.20	Interests in SunCal Bickford (of SunCal I).	SunCal Bickford Scheduled
Class 9.21	Interests in SunCal I (of SCC LLC).	SunCal I Scheduled
Class 9.22	Interests in Seven Brothers (of SunCal Summit Valley).	Seven Brothers Scheduled
Class 9.23	Interests in Kirby Estates (of SunCal Summit Valley).	Kirby Estates Scheduled
Class 9.24	Interests in SCC Palmdale (of SCC LLC).	SCC Palmdale Scheduled

## V.

### **TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS**

Any references in the Lehman Plan to Class 1, Class 2, Class 4, Class 5, Class 6, Class 7, Class 8 and Class 9 are summary references made for convenience only to the group of subclasses of each such Class (Classes 1.1 through 1.20, Classes 2.1 through 2.19, Classes 4.1 through 4.15, Classes 5.1 through 5.54, Classes 6.1 through 6.4, Classes 7.1 through 7.24, Classes 8.1 through 8.19 and Classes 9.1 through 9.24). Regardless of the treatment provided herein for any Holder of a Claim, the Holder may agree to accept less favorable treatment. Provisions for treatment below

for Holders of Allowed Claims are not an indication that any particular Claim is Allowed unless expressly provided.

**5.1 Treatment of Allowed Secured Real Property Tax Claims (Classes 1.1 through 1.20).**

The treatment of Allowed Secured Real Property Tax Claims in Classes 1.1 through 1.20 under the Lehman Plan is as follows:

(a) Classes 1.1 through 1.20 are unimpaired under the Plan, and each Holder of an Allowed Secured Real Property Tax Claim is not entitled to vote on the Plan;

(b) As of the Effective Date, each Holder of an Allowed Secured Real Property Tax Claim shall retain its underlying Liens on the applicable real property collateral;

(c) On or before the Effective Date, the Lehman Lenders, in consultation with the Committees and the anticipated Liquidating Trustee, as limited below, shall select, and the Liquidating Trustee shall implement, as necessary, unless the Holder of an Allowed Secured Real Property Tax Claim agrees to less favorable treatment, one of the following alternative treatments for each such Allowed Secured Real Property Tax Claim, which treatment shall be in full and final satisfaction, settlement, release, and discharge of, and exchange for each such Allowed Secured Real Property Tax Claim:

**A. Cash Payment.** On the Effective Date, the Liquidating Trustee (with the consent of the Lehman Lenders to the extent that payment would require utilization of Cash Collateral of any of the Lehman Creditors, which consent may be granted or denied in their sole discretion) will pay, to the Holder of such Allowed Secured Real Property Tax Claim, Cash equal to the amount of such Allowed Secured Real Property Tax Claim, or such lesser amount as to which the Holder of such Allowed Secured Real Property Tax Claim, the Liquidating Trustee and the Lehman Lenders agree; or

**B. Unimpairment.** (i) As of the Effective Date, the Holder of such Allowed Secured Real Property Tax Claim shall have left unaltered its legal, equitable and contractual rights as a Holder of such Allowed Secured Real Property Tax Claim and shall be free to pursue its rights and remedies against the underlying real property collateral under applicable nonbankruptcy law;

1 and (ii) the Liquidating Trustee shall File with the Bankruptcy Court and serve on the Holder notice  
2 of the selection of this alternative treatment for such Holder.

3 **5.2 Treatment of Lehman Secured Claims (Classes 2.1 through 2.19).**

4 The treatment of Lehman Secured Claims (Classes 2.1 through 2.19) under the Lehman  
5 Plan shall be as follows:

6 **5.2.1 Voting.**

7 Classes 2.1 through 2.19 are impaired under the Plan, and each Holder of a Lehman Secured  
8 Claim is entitled to vote on the Plan.

9 **5.2.2 Liens.**

10 As of the Effective Date, each Holder of a Lehman Secured Claim shall retain its underlying  
11 Liens on the applicable collateral. Thereafter, additional Liens may be granted or Liens may be  
12 released all as set forth in Section 5.2 and Article VII of the Plan.

13 **5.2.3 Claims.**

14 Subject to applicable provisions of the Lehman Plan, including Article VII of the Plan  
15 (which provisions are designed to protect (a) ES Claimants as provided therein in the event of an  
16 ES Judgment subordinating all or any part of certain Lehman Secured Claims to Allowed ES  
17 Claims and (b) the Estates of Acton Estates, Tesoro and SCC Communities in the event of a Cross-  
18 Collateralization Judgment), each Lehman Secured Claim shall be Allowed for voting and all other  
19 purposes as a Secured Claim in the amounts set forth in Article IV above; provided that (i) any  
20 deficiency shall be an Allowed Class 7 Claim in the appropriate subclass thereof; (ii) as to Lehman  
21 Secured Claims for which, as to all of the applicable collateral other than Cash Collateral of the  
22 applicable Lehman Creditor, there is a Successful Bidder in accordance with the Lehman Plan Sale  
23 or Foreclosure Procedures, the amount of a Lehman Secured Claim shall equal the sum of (a) such  
24 Cash Collateral and (b) the amount bid by the Successful Bidder for the non-Cash collateral; and  
25 (iii) as to all other Lehman Secured Claims, upon disposition of all of the collateral therefor or upon  
26 a valuation motion made by the Liquidating Trustee or the applicable Holder of any Lehman  
27 Secured Claims after abandonment or surrender thereof, the amount of the applicable Lehman  
28 Secured Claim and any related deficiency shall be accordingly adjusted.

1                               **5.2.4       Disposition of Collateral**

2               On the Effective Date, all Cash Collateral for a Lehman Secured Claim not used on the  
3       Effective Date as permitted or required by the Lehman Plan shall be deposited into the Plan  
4       Reserve. Certain of the Remaining Real Restate Projects shall be sold or conveyed pursuant to the  
5       Lehman Plan Sale or Foreclosure Procedures. If a Project or other Asset of a Plan Debtor which is  
6       the collateral for a Lehman Secured Claim is transferred to one or more Lehman Nominees  
7       pursuant to the Lehman Plan Sale or Foreclosure Procedures, any such Project so conveyed shall  
8       become a PRA Security Project subject to a PRA Recovery Deed of Trust as and to the extent  
9       described in Article VII of the Plan. If a Project or other Asset of a Plan Debtor which is collateral  
10      for a Lehman Secured Claim is sold to a third party purchaser, the Net Cash Proceeds therefrom  
11      shall be remitted to the Liquidating Trustee who shall hold such Net Cash Proceeds in the Plan  
12      Reserve and any non-Cash Net Proceeds therefrom shall also be remitted to the Liquidating Trustee  
13      and the applicable Lehman Lender shall be afforded a substitute Lien on such non-Cash Net  
14      Proceeds. Any remaining collateral for a Lehman Secured Claim, which is not otherwise sold or  
15      conveyed pursuant to the Lehman Plan Sale or Foreclosure Procedures may be retained, sold or  
16      abandoned by the Liquidating Trustee as provided under the Lehman Plan with the Net Cash  
17      Proceeds therefrom to be applied first to pay such Lehman Secured Claim and then to pay other  
18      Claims in accordance with the Lehman Plan, provided that, if no disposition of such collateral  
19      occurs within one (1) year after the Effective Date, the applicable Lehman Lender may enforce its  
20      Liens.

21                           **5.2.5       Releases, Reconveyances, Assignments and Payments.**

22               (i)       Upon final settlement or determination of the Project Related Actions in  
23      favor of the applicable Lehman Related Parties, consistent therewith, the Liquidating Trustee shall  
24      (1) release and reconvey to the applicable Lehman Nominees all PRA Recovery Deeds of Trust and  
25      terminate all Reconveyance Agreements, (2) pay the applicable Lehman Nominee the amount held  
26      in the Plan Reserve in respect of, and any other, Net Cash Proceeds of the sale of the PRA Security  
27      Project previously owned by such Lehman Nominee, (3) assign non-Cash Net Proceeds (including  
28      all substitute Liens and related, underlying obligations) (x) from the sale of any PRA Security

1 Project, to the applicable Lehman Nominee and (y) from the sale of any collateral for a Lehman  
2 Secured Claim, to the applicable Holder of such Lehman Secured Claim, (4) distribute to the  
3 applicable Holder of a Lehman Secured Claim any remaining non-Cash collateral for such Claim,  
4 and (5) pay to the applicable Holder of a Lehman Secured Claim, the amounts held in the Plan  
5 Reserve with respect to such Lehman Secured Claim (including any Cash Collateral of such Holder  
6 that was deposited in the Plan Reserve) and any other Net Cash Proceeds of the disposition of  
7 collateral for such Lehman Secured Claim, up to the amount of the Lehman Secured Claim, with  
8 interest and fees in accordance with its contractual terms. Thereupon, the Allowed Lehman  
9 Secured Claim shall be deemed satisfied by such payments and such conveyances of collateral free  
10 and clear as set forth in Section 7.7.2(a).

11 (ii) Upon final settlement or determination of the Project Related Actions against  
12 the applicable Lehman Related Parties, consistent therewith, the Liquidating Trustee, in satisfaction  
13 of the Project Related Action Recoveries, shall distribute to the applicable Estates available Cash  
14 from the Plan Reserve and shall liquidate and distribute to the applicable Estates the Net Proceeds  
15 from the PRA Recovery Security Pool and non-Cash Net Proceeds from the sale of collateral for  
16 the Lehman Secured Claims (which are the exclusive sources of satisfaction of a Project Related  
17 Action Recovery absent a voluntary payment by a Lehman Related Party in accordance with  
18 Article VII of the Plan), and upon satisfaction of the Project Related Action Recoveries, to the  
19 extent of any remainder of such Cash or property, the Liquidating Trustee shall afford Lehman  
20 Secured Claims the treatment described in the preceding subparagraph to this Section 5.2.5 of the  
21 Lehman Plan.

22 (iii) As more fully set forth in Article VII of the Plan, at any time that the Plan  
23 Reserve contains an amount equal to the Maximum PRA Recovery Amount, the Liquidating  
24 Trustee shall release and reconvey to the applicable Lehman Nominees all PRA Recovery Deeds of  
25 Trust, terminate all Reconveyance Agreements and release to the applicable Holders of Lehman  
26 Secured Claims and all Lehman Nominees all funds in the Plan Reserve in excess of the Maximum  
27 PRA Recovery Amount.  
28



**5.3 Treatment of Allowed Danske Secured Claim (Class 3).**

The treatment of the Danske Secured Claim (Class 3) under the Lehman Plan shall be as follows:

**5.3.1 Voting.**

Class 3 is impaired under the Plan, and the Holder of the Allowed Danske Secured Claim is entitled to vote on the Plan.

**5.3.2 Liens.**

As of the Effective Date, the Holder of the Allowed Danske Secured Claim shall retain its underlying Liens on the applicable collateral.

**5.3.3 Claims.**

The Allowed Danske Secured Claim shall be Allowed for voting and all other purposes as a Secured Claim in the amounts set forth in Article IV above; provided that (i) any deficiency shall be an Allowed Class 7 Claim in the appropriate subclass thereof; and (ii) upon disposition of all of the collateral for such Allowed Danske Secured Claim or upon valuation motion made by the Liquidating Trustee or the Holder of such Allowed Danske Secured Claim after abandonment or surrender of such collateral, the amount of the Allowed Danske Secured Claim and any related deficiency shall be accordingly adjusted.

**5.3.4 Disposition of Collateral and Means Therefor**

On the Effective Date, all Cash Collateral for the Allowed Danske Secured Claim shall be turned over to the Holder of the Allowed Danske Secured Claim in respect of such Claim, unless the Holder agrees to permit the Liquidating Trustee to retain or use any portion thereof.

The Liquidating Trustee shall market for sale and sell the non-Cash collateral for the Allowed Danske Secured Claim, including the 10000 Santa Monica Project, or abandon all or any of such collateral upon motion to the Bankruptcy Court. The collateral, together with all associated personal property, shall be sold free and clear of Encumbrances other than Permitted Liens for Cash, or on such other terms to which the Holder of the Allowed Danske Secured Claim consents. The Holder of the Allowed Danske Secured Claim shall receive at least thirty (30) days' prior notice of any proposed sale. The Holder of the Allowed Danske Secured Claim may elect to credit

1 bid in response to such notice up to the full amount of the Allowed Danske Secured Claim (without  
2 the amount bid being limited to the value of the interest of the Holder of the Allowed Danske  
3 Secured Claim in such collateral).

4 If the collateral for the Allowed Danske Secured Claim is sold to a third party purchaser,  
5 promptly upon receipt thereof by the Liquidating Trustee, there shall be turned over or paid to the  
6 Holder of the Allowed Danske Secured Claim up to the full amount of the Allowed Danske  
7 Secured Claim from any non-Cash Net Proceeds therefrom and from the Net Cash Proceeds  
8 remaining after payment, (a) first, of SunCal Century City's Pro Rata share of the Lehman Post-  
9 Confirmation Loan, (b) second, payment of SunCal Century City's direct Post-Confirmation  
10 Expenses and its Pro Rata share of unpaid Post-Confirmation Expenses commonly allocable among  
11 it and other Plan Debtors, and (c) third, any post-Confirmation Date intercompany payables. Any  
12 remaining Net Cash Proceeds thereafter shall be used to pay other obligations of the applicable  
13 Debtor in the priorities set forth in Section 7.9.2(b) of the Plan. If no disposition of such collateral  
14 occurs within one (1) year after the Effective Date, the Holder of the Allowed Danske Secured  
15 Claim may enforce its Liens. The Holder of the Allowed Danske Secured Claim may advance  
16 funds to the Liquidating Trustee for the protection of its collateral or administration of the Estate of  
17 SunCal Century City on such terms as the Holder of the Allowed Danske Secured Claim and  
18 Liquidating Trustee agree.

19 **5.4 Treatment of Allowed Other Secured Claims (Classes 4.1 Through 4.15).**

20 The treatment of Allowed Other Secured Claims in Classes 4.1 through 4.15 under the  
21 Lehman Plan shall be as follows:

22 (a) Classes 4.1 through 4.15 are unimpaired under the Plan, and each Holder of an  
23 Allowed Secured Claim in Classes 4.1 through 4.15 is not entitled to vote on the Plan;

24 (b) As of the Effective Date, each Holder of an Allowed Other Secured Claim in Classes  
25 4.1 through 4.15 shall retain its underlying Liens on the applicable collateral;

26 (c) On or before the Effective Date, the Lehman Lenders, in consultation with the  
27 Committees and anticipated Liquidating Trustee, as limited below, shall select and the Liquidating  
28 Trustee shall implement, as necessary, unless the Holder of an Allowed Other Secured Claim in

Classes 4.1 through 4.15 agrees to less favorable treatment, one of the following alternative treatments for each such Allowed Other Secured Claim in Classes 4.1 through 4.15, which treatment shall be in full and final satisfaction, settlement, release, and discharge of, and exchange for each such Allowed Secured Claim in Classes 4.1 through 4.15:

**A. Abandonment or Surrender.** On the Effective Date, the Liquidating Trustee will abandon or surrender to the Holder of such Allowed Other Secured Claim in Classes 4.1 through 4.15 the property securing such Allowed Other Secured Claim in Classes 4.1 through 4.15 as of the Effective Date;

**B. Cash Payment.** On the Effective Date, the Liquidating Trustee (with the consent of the Lehman Lenders to the extent that payment would require utilization of Cash Collateral of any of the Lehman Creditors, which consent may be granted or denied in their sole discretion) will pay, to the Holder of such Allowed Other Secured Claim in Classes 4.1 through 4.15, Cash equal to the amount of such Allowed Other Secured Claim in Classes 4.1 through 4.15, or such lesser amount as to which the Holder of such Allowed Other Secured Claim in Classes 4.1 through 4.15, the Liquidating Trustee and the Lehman Lenders agree; or

**C. Unimpairment.** (i) As of the Effective Date, the Holder of such Allowed Other Secured Claim in Classes 4.1 through 4.15 shall have left unaltered its legal, equitable and contractual rights as a Holder of such Allowed Other Secured Claim in Classes 4.1 through 4.15 and shall be free to pursue its rights and remedies against the underlying collateral under applicable nonbankruptcy law; and (ii) the Liquidating Trustee shall File with the Bankruptcy Court and serve on the Holder of each Allowed Other Secured Claim in Classes 4.1 through 4.15 for which this treatment is selected, notice of the selection of this alternative treatment for such Holder.

**5.5 Treatment of Allowed Secured Mechanic's Lien Claims Against the Plan Debtors (Classes 5.1 through 5.54).**

The treatment of Allowed Secured Mechanic's Lien Claims in Classes 5.1 through 5.54 under the Lehman Plan shall be as follows:

(a) Classes 5.1 through 5.54 are unimpaired under the Plan, and each Holder of an Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54 is not entitled to vote on the Plan;

(b) As of the Effective Date, each Holder of an Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54 shall retain its underlying Liens on the applicable collateral;

(c) On or before the Effective Date, the Lehman Lenders, in consultation with the Committees and the anticipated Liquidating Trustee, as limited below, shall select, and the Liquidating Trustee shall implement, as necessary, unless the Holder of an Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54 agrees to less favorable treatment, one of the following alternative treatments for each such Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54, which treatment shall be in full and final satisfaction, settlement, release, and discharge of, and exchange for each such Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54:

**A. Abandonment or Surrender.** On the Effective Date, the Liquidating Trustee will abandon or surrender to the Holder of such Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54 the property securing such Allowed Secured Claim as of the Effective Date;

**B. Cash Payment.** On the Effective Date, the Liquidating Trustee (with the consent of the Lehman Lenders to the extent that payment would require utilization of Cash Collateral of any of the Lehman Creditors, which consent may be granted or denied in their sole discretion) will pay, to the Holder of such Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54, Cash equal to the amount of such Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54, or such lesser amount as to which the Holder of such Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54, the Liquidating Trustee and the Lehman Lenders agree; or

**C. Unimpairment.** (i) As of the Effective Date, the Holder of such Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54 shall have left unaltered its legal, equitable and contractual rights as a Holder of such Allowed Secured Mechanic's Lien Claim in

Classes 5.1 through 5.54 and shall be free to pursue its rights and remedies against the underlying collateral under applicable nonbankruptcy law; and (ii) the Liquidating Trustee shall File with the Bankruptcy Court and serve on the Holder of each Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54 for which this treatment was selected, notice of the selection of this alternative treatment for such Holder.

**5.6 Treatment of Allowed Priority Claims (Classes 6.1 Through 6.4).**

The treatment of Allowed Priority Claims in Classes 6.1 through 6.4 under the Lehman Plan shall be as follows:

(a) Classes 6.1 through 6.4 are unimpaired under the Plan, and each Holder of an Allowed Priority Claim is not entitled to vote on the Plan.

(b) Each Holder of an Allowed Priority Claim shall be paid (i) the full amount of such Allowed Priority Claim in Cash on the later of (x) the Effective Date, (y) the date such Claim becomes an Allowed Priority Claim or (z) the date such Allowed Priority Claim becomes payable in accordance with the terms governing such Allowed Priority Claim, or (ii) upon such other less favorable terms as may be agreed to by such Holder of the Allowed Priority Claim and the Liquidating Trustee.

**5.7 Treatment of Allowed General Unsecured Claims (Classes 7.1 Through 7.24).**

The treatment of Allowed General Unsecured Claims in Classes 7.1 through 7.24 under the Lehman Plan shall be as follows:

(a) Classes 7.1 through 7.24 are impaired under the Plan, and each Holder of an Allowed General Unsecured Claim is entitled to vote on the Plan; and

(b) As soon as reasonably practicable in the sole discretion of the Liquidating Trustee, the Liquidating Trustee shall distribute the Residual Cash in each Estate Pro Rata to the Holders of Allowed General Unsecured Claims in Classes 7.1 through 7.24, as applicable, and Allowed ES Claims in Classes 8.1 through 8.19, as applicable.

**5.8 Treatment of Allowed ES Claims (Classes 8.1 through 8.19).**

The treatment of Allowed ES Claims in Classes 8.1 through 8.19 under the Lehman Plan shall be as follows:

(a) Classes 8.1 through 8.19 are impaired under the Plan, and each Holder of an Allowed ES Claim is entitled to vote on the Plan;

(b) As soon as reasonably practicable in the sole discretion of the Liquidating Trustee, the Liquidating Trustee shall distribute the Residual Cash in each Estate Pro Rata to the Holders of Allowed General Unsecured Claims in Classes 7.1 through 7.24, as applicable, and Allowed ES Claims in Classes 8.1 through 8.19, as applicable (subject to the terms of any ES Claimant Release and Assignment with respect to Claims against a Lehman Releasee);

(c) Each Holder of an Allowed ES Claim also shall receive either:

(i) if the Holder of an Allowed ES Claim votes to accept the ES Settlement Offer (or if there is Estate Acceptance of the ES Settlement for the Estate against which the Allowed ES Claim is asserted) and the Holder returns with its Ballot or to the Lehman Lenders a duly executed ES Claimant Release and Assignment, an ES Pro Rata Settlement Payment to be paid as soon as reasonably practicable after the later of: (1) the Effective Date; and (2) final allowance of such Allowed ES Claim; or

(ii) if the Holder of an Allowed ES Claim does not vote to accept the ES Settlement Offer (and there is not Estate Acceptance of the ES Settlement for the Estate against which the Allowed ES Claim is asserted), the benefits, if any, of the Equitable Subordination Claims as determined by the Bankruptcy Court in connection with an ES Action, as and when available. For Holders of Allowed ES Claims entitled to the benefits, if any, of the Equitable Subordination Claims as determined by the Bankruptcy Court in connection with an ES Action, upon final settlement or determination of the Equitable Subordination Claims in an ES Action against the applicable Lehman Related Parties, if any and consistent therewith, the Liquidating Trustee, in satisfaction of an ES Judgment, shall distribute to the applicable Estate available Cash from the Plan Reserve and shall liquidate and distribute to the applicable Estate Net Cash Proceeds from the PRA Recovery Security Pool and from the liquidation of any non-Cash Net Proceeds from

1 the sale of collateral of the Holders of Lehman Secured Claims or the sale of any PRA Security  
2 Project (which are the exclusive sources of satisfaction of an ES Judgment absent a voluntary  
3 payment by a Lehman Related Party in accordance with Article VII of the Plan).

4 **5.9 Treatment of Allowed Interests**

5 **(Classes 9.1 through 9.24)**

6 The treatment of Allowed Interests in Classes 9.1 through 9.24 under the Lehman Plan shall  
7 be as follows:

8 (a) Classes 9.1 through 9.24 are impaired under the Plan, and each Holder of an  
9 Allowed Interest is deemed to reject the Plan and is not entitled to vote; and

10 (b) On the Effective Date, all such Allowed Interests shall be cancelled.

11 **VI.**

12 **ACCEPTANCE OR REJECTION OF THE PLAN**

13 **6.1 Introduction.**

14 PERSONS OR ENTITIES CONCERNED WITH CONFIRMATION OF THE PLAN  
15 SHOULD CONSULT WITH THEIR OWN ATTORNEYS BECAUSE THE LAW ON  
16 CONFIRMING A PLAN OF REORGANIZATION IS VERY COMPLEX. The following  
17 discussion is intended solely for the purpose of alerting readers about basic confirmation issues,  
18 which they may wish to consider, as well as certain deadlines for filing Claims. The Lehman  
19 Proponents cannot represent that the discussion contained below is a complete summary of the law  
20 on this topic.

21 Many requirements must be met before the Bankruptcy Court can confirm the Lehman Plan.  
22 Some of the requirements include that the Lehman Plan must (a) be proposed in good faith, (b) be  
23 accepted in accordance with the provisions of the Bankruptcy Code, (c) pay creditors at least as  
24 much as creditors would receive in a Chapter 7 liquidation and (d) be feasible. The requirements  
25 described herein are not the only requirements for confirmation.

26 **6.2 Who May Object to Confirmation of the Lehman Plan.**

27 Any party in interest may object to the confirmation of the Lehman Plan but, as explained  
28 below, not everyone is entitled to vote to accept or reject the Lehman Plan.

**6.3 Who May Vote to Accept/Reject the Lehman Plan and Special Provisions for Listed Holders of Mechanic's Lien Claims.**

A Holder of a Claim or Interest has a right to vote for or against the Lehman Plan if that Holder of the Claim or Interest has a Claim which is both (1) Allowed or Allowed for voting purposes and (2) Classified in an impaired Class.

Because Classes 5.1 through 5.54 are unimpaired, any Holders of Allowed Mechanic's Lien Claims are deemed to accept the Plan. The Lehman Proponents, however, dispute the "secured" status of all, many or most of the Claims classified in Classes 5.1 to 5.54 because they believe that there are senior Liens of Lehman Creditors and no value in the junior Liens of the Holders of Mechanic's Lien Claims. Thus, each listed Holder of a Mechanic's Lien Claim will be provided a Ballot on which such Holder may elect to vote its Claims as a General Unsecured Claim or an ES Claim, as applicable, in which event the Holder will have to waive contentions that its interest in the collateral securing its Claim has any value and thus that it holds a Secured Claim against the applicable Project.

**6.4 What Is an Allowed Claim/Interest.**

As noted above, a Holder of Claim or Interest must first have an Allowed Claim or Allowed Interest to vote.

**6.5 What Is an Impaired Class.**

A Class is impaired if the Lehman Plan alters the legal, equitable, or contractual rights of the Claims or Interests in that Class, other than the right to accelerate the Claim upon certain kinds of defaults. Under the Lehman Plan, Classes 1, 4, 5 and 6 are unimpaired and Classes 2, 3, 7, 8 and 9 are impaired.

**6.6 Who Is Not Entitled to Vote.**

The following four types of Claims are not entitled to vote: (1) Claims that have been disallowed; (2) Claims in unimpaired Classes; (3) Claims that, pursuant to Bankruptcy Code Sections 507(a)(2), (a)(3) or (a)(8), are entitled to priority, and (4) Claims in Classes that do not receive or retain any value under the Plan. Claims in unimpaired Classes are not entitled to vote because such Classes are deemed to have accepted the Plan. Claims entitled to priority pursuant to



1 Bankruptcy Code Section 507(a)(2), (3) or (8) are not entitled to vote because such Claims are not  
2 placed in Classes and they are required to receive certain treatment specified by the Bankruptcy  
3 Code. Claims in Classes that do not receive or retain any property under the Plan do not vote  
4 because such Classes are deemed to have rejected the Plan. The Lehman Proponents believe that (a)  
5 Classes 1, 4, 5 and 6 are unimpaired and thus are not entitled to vote because they are conclusively  
6 deemed to have accepted the Plan; (b) Class 9 Interests are being cancelled under the Plan and  
7 nothing is to be paid to their Holders and accordingly these Holders are deemed to have voted to  
8 reject the Plan and also are not entitled to vote; and (c) Classes 2, 3, 7 and 8 are impaired and are  
9 entitled to vote.

10 EVEN IF A CLAIM IS OF THE TYPE DESCRIBED ABOVE, A CREDITOR MAY  
11 STILL HAVE A RIGHT TO OBJECT TO THE CONFIRMATION OF THE PLAN.

12 **6.7 Who Can Vote in More than One Class.**

13 A creditor whose Claim has been Allowed in part as a Secured Claim and in part as an  
14 Unsecured Claim is entitled to accept or reject a Plan in both capacities by casting one Ballot for  
15 the secured part of the Claim and another Ballot for the Unsecured Claim. Also, a Creditor may  
16 otherwise hold Claims in more than one Class (such as a Holder of General Unsecured Claims and  
17 ES Claims), and may vote the Claims held in each Class.

18 **6.8 Votes Necessary for a Class to Accept the Lehman Plan.**

19 A Class of Claims is deemed to have accepted the Lehman Plan when more than one-half  
20 (1/2) in number and at least two-thirds (2/3) in dollar amount of the Claims *that actually voted*, vote  
21 to accept the Lehman Plan. A Class of interests is deemed to have accepted the Lehman Plan when  
22 Holders of at least two-thirds (2/3) in amount of the interest-Holders of such Class which actually  
23 vote, vote to accept the Lehman Plan.

24 **6.9 Treatment of Nonaccepting Classes.**

25 As noted above, even if there are impaired Classes that do not accept the proposed Plan, the  
26 Court may nonetheless confirm the Lehman Plan if the non-accepting Classes are treated in the  
27 manner required by the Bankruptcy Code and at least one impaired Class of Claims accepts the  
28 Lehman Plan. The process by which a plan may be confirmed and become binding on non-

1 accepting Classes is commonly referred to as “cramdown.” The Bankruptcy Code allows the  
2 Lehman Plan to be “crammed down” on non-accepting Classes of Claims or Interests if it meets all  
3 statutory requirements except the voting requirements of 1129(a)(8) and if the Lehman Plan does  
4 not “discriminate unfairly” and is “fair and equitable” with respect to each impaired Class that has  
5 not voted to accept the Lehman Plan, as set forth in 11 U.S.C. § 1129(b) and applicable case law.

6 **6.10 Request for Confirmation Despite Nonacceptance by Impaired Class(es).**

7 The Lehman Proponents will ask the Bankruptcy Court to confirm the Lehman Plan by  
8 cramdown on any impaired Class if such Class does not vote to accept the Lehman Plan.

9 **VII.**

10 **MEANS OF EXECUTION AND IMPLEMENTATION OF THE PLAN**

11 **7.1 Introduction.**

12 This section is intended to address how the Lehman Proponents intend to fund and to have  
13 implemented the obligations to Creditors under the Lehman Plan. It thus provides information  
14 regarding funding sources and mechanisms for the Plan obligations, management of the Plan  
15 Debtors’ Estates after the Effective Date and other material issues bearing upon the performance of  
16 the Lehman Plan.

17 The Lehman Creditors are owed, collectively, approximately \$1.9 billion secured by deeds  
18 of trust on certain of the Remaining Real Estate Projects, certain Cash Collateral and other Assets  
19 of the Debtors’ Estates. The Debtors have challenged the Lehman Creditors’ Secured Claims,  
20 contending that (a) certain of the Lehman Creditors’ Liens on the Assets of particular Debtors who  
21 are obligors under certain Lehman Loans are subject to being set aside because, among other  
22 things, other affiliated Debtors, rather than the obligor Debtors, received the benefit of such  
23 Lehman Loans (the Cross-Collateralization Claims), and (b) the Claims of the Lehman Creditors  
24 should be subordinated to the Claims of certain other Creditors allegedly harmed by the conduct of  
25 the Lehman Lenders (the Equitable Subordination Claims). The Lehman Lenders do not concur  
26 with these conclusions of the Debtors and/or with many of the factual contentions asserted as  
27 supporting or providing a basis for the Cross-Collateralization Claims and/or Equitable  
28 Subordination Claims.

Nonetheless, to enable the Debtors to emerge from bankruptcy, which the Lehman Lenders believe is in the interest of all Creditors, with a Plan that is fair to all constituencies and best preserves current values and prevents further deterioration in the values of the Assets of the Debtors, the Lehman Proponents have proposed the Lehman Plan through which they: (a) make available funds for ES Pro Rata Settlement Payments to settle the ES Claims of Settling ES Claimants; (b) propose, through the Lehman Plan Sale or Foreclosure Procedures, auctions of the Remaining Real Estate Projects at which third parties may bid for the Remaining Real Estate Projects and at which the Lehman Creditors and other Holders of Allowed Secured Claims may credit bid; (c) provide for the means of liquidation of the Remaining Other Assets and for the distribution of Residual Cash for Holders of both Allowed ES Claims and Allowed General Unsecured Claims; and (d) protect those ES Claimants who elect not to have the Estates settle their ES Claims by (i) making available the ES Litigation Loan to enable continued prosecution of the Equitable Subordination Claims in an ES Action, (ii) granting certain specific concessions, described below, that could facilitate the entry and collection of an ES Judgment, and (iii) providing security for satisfaction of a Project Related Action Recovery.

## **7.2 The Liquidating Trustee.**

The Estate of each Plan Debtor shall be managed after the Effective Date by the Liquidating Trustee, who, except as otherwise provided herein, shall oversee and effectuate the liquidation of the Remaining Other Assets, oversee and effectuate the sale and transfer or other disposition or liquidation of the Remaining Real Estate Projects and implement the Plan. The Liquidating Trustee shall be appointed by the Court upon nomination, if any, by a Committee and, in his or her capacity as such, shall be an agent of each Estate and not a separate taxable entity therefrom. Compensation of the Liquidating Trustee shall be reasonable hourly compensation payable from the Plan Debtors' Estates after prior notice to, *inter alia*, the Lehman Lenders, Committee members, and U.S. Trustee and after order of the Bankruptcy Court. The Bankruptcy Court may, by order, replace the Liquidating Trustee in its reasonable discretion. After the Effective Date, the Liquidating Trustee, *inter alia*, will cooperate in granting, perfecting or reflecting perfection of any Liens acknowledged or created or provided for under the Plan, will complete the claims process, will resolve or abandon

any objections to Claims, will liquidate and/or distribute assets and will resolve or dismiss any Litigation Claims which are not waived in the Plan, all in accordance with the Plan.

**7.3 Vesting of Assets in Plan Debtors' Estates Managed by Liquidating Trustee.**

Except as otherwise provided herein or any agreement, instrument or other document relating hereto, on and after the Effective Date, all property of each Plan Debtor's Estate shall vest in each respective Estate, free and clear of all Liens. Except as may be provided herein, on and after the Effective Date, the Liquidating Trustee may operate the business of each Estate and may use, acquire or dispose of property and compromise or settle any Claims or Interests without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules, other than those restrictions expressly imposed by the Plan and the Confirmation Order. On motion to the Bankruptcy Court and consent of the Lehman Lenders, the Liquidating Trustee may elect hereafter to abandon to the Plan Debtors Assets of inconsequential value.

**7.4 The Committee(s).**

On the Effective Date, the Voluntary Debtors' Committee and the Trustee Debtors' Committee shall continue to serve the applicable Estates of the Plan Debtors and shall be entitled to retain, employ and compensate Professionals in order to assist with the obligations and rights of the Committees under the terms of the Lehman Plan (with compensation to be paid by the Liquidating Trustee from the Post-Confirmation Account(s)), provided that the duties of the Committee(s) after the Effective Date shall be limited to monitoring the Plan's implementation. The Liquidating Trustee shall reimburse members of the Committee without further Court Order required for their reasonable out-of-pocket expenses incurred after the Effective Date for mileage, parking, or other incidentals incurred in performing their duties as members of the Committee.

**7.5 Lehman Post-Confirmation Loans.**

**7.5.1 Amount and Uses of Lehman Post-Confirmation Loans.**

On and after the Effective Date, the Lehman Lenders, or certain of them as described herein, will make funding available to the Liquidating Trustee, in the form of one or more loans, from either or both new Cash transfers from or on behalf of a Lehman Related Party (of up to a

1 maximum of \$5 million) or by permitting the use of Cash Collateral of a Lehman Creditor,  
2 including, without limitation, all or a portion of the Ritter Cash, for the following purposes and in  
3 the following amounts, provided that the proceeds of a Lehman Post-Confirmation Loan may not  
4 be utilized to pay any Lehman Post-Confirmation Expenses:

5 (a) Allowed Professional Fees of the insolvency counsels for the Trustee and the  
6 Committees up to the aggregate amount of \$500,000 to be made after payments from the Lehman  
7 Administrative Loans and Available Cash from the Post-Confirmation Account(s) have been  
8 exhausted;

9 (b) Payments in satisfaction of Allowed Priority Claims up to the amount of \$35,000  
10 after Available Cash in the Post-Confirmation Account(s) have been exhausted;

11 (c) Funding for or relating to the ES Litigation Expenses solely from proceeds from the  
12 ES Litigation Loan;

13 (d) All amounts required to address critical and urgent health and safety issues on the  
14 Projects (other than 10000 Santa Monica Project) until the expiration of the earlier of (i) the date  
15 that such Project is no longer an Asset belonging to an Estate of a Plan Debtor, or (ii) thirty (30)  
16 days following the auction of such Project to occur pursuant to the Lehman Plan Sale or  
17 Foreclosure Procedures, up to the aggregate amount of \$400,000 after payments made from the  
18 Post-Confirmation Accounts have been exhausted;

19 (e) Payments in satisfaction of the Lehman Administrative Loans (provided that (i)  
20 payment thereof first has been made from all Cash of the Plan Debtors' Estates that is not Cash  
21 Collateral of a Lehman Creditor, with any such use of Cash of one Plan Debtor's Estate for another  
22 booked as a Post-Confirmation Date intercompany payable by the borrowing Plan Debtor's Estate  
23 and (ii) the Lehman Lenders may elect prior to receipt of payment thereupon to defer receipt  
24 thereof and be paid otherwise as provided herein for such Lehman Administrative Loans);

25 (f) Obligations with respect to the Remaining Real Estate Projects while owned by the  
26 Estates, to the extent requested by the Lehman Lenders holding or representing the Holder of an  
27 interest in the subject Project and in their sole and absolute discretion, including any property taxes,  
28 assessments, liabilities, obligations, claims or payables that would be superior to the interest of any

1 Lehman Creditor holding a Secured Claim in any Remaining Real Estate Project, which obligations  
2 are to be paid by the Liquidating Trustee if so directed by the Lehman Lenders;

3 (g) Obligations with respect to the PRA Security Projects that are part of the PRA  
4 Recovery Security Pool and therefore serve as collateral for a Project Related Action Recovery to  
5 the extent requested by the Lehman Lenders or Lehman Nominee holding an interest in the subject  
6 Project and in their sole and absolute discretion, including any property taxes, assessments,  
7 liabilities, obligations, claims or payables that would be superior to the interest of any Lehman  
8 Creditor holding a Secured Claim in any Remaining Real Estate Project, which obligations are to  
9 be paid by the Liquidating Trustee if so directed by the Lehman Lenders; provided, however, that  
10 repayment of a loan made for a purpose set forth in this subparagraph shall be limited in recourse to  
11 an offset against any ES Judgment; and

12 (h) To the extent that the Liquidating Trustee is unable to otherwise fund them, all  
13 additional obligations of the Liquidating Trustee (in such capacity) that arise on or after the  
14 Effective Date to the extent that both their incurrence is necessary for implementation of the  
15 Lehman Plan and they become due and payable in Cash during the term of the Lehman Post-  
16 Confirmation Loans other than and excluding (i) those obligations of the type or nature (regardless  
17 of amount) already set forth in subsection (a) through (d) above and (ii) those obligations covered  
18 in any portion by insurance or for which obtaining insurance would have been reasonable,  
19 appropriate and customary.

#### 20 **7.5.2 Cash Collateral of a Lehman Creditor.**

21 Cash Collateral of Lehman Creditors shall be available as funding for (i) loans to the  
22 Liquidating Trustee and Plan Debtors' Estates as and to the extent set forth in the preceding  
23 numbered Section of the Plan and (ii) for payment of the ES Pro Rata Settlement Payments. At any  
24 time, the Liquidating Trustee, as directed by a Lehman Lender, shall use Cash Collateral of the  
25 Lehman Creditors to repay a Lehman Post-Confirmation Loan that was made other than from the  
26 use of Cash Collateral.

27 Also, upon disposition of collateral of a Lehman Creditor or of a PRA Security Project that  
28 results in proceeds being deposited to the Plan Reserve, or upon turnover of Cash Collateral to the

1 Plan Reserve, a Lien in favor of the applicable Lehman Creditor shall attach to (or remain upon)  
2 such proceeds and/or Cash Collateral held in the Plan Reserve, subject to a final settlement or  
3 determination of the Project Related Actions.

4 Further, at the election of a Lehman Lender and to facilitate its extension of credit under the  
5 Plan, as to any payment that was to be made with funds comprising Cash Collateral of a Lehman  
6 Creditor, the Lehman Lender may direct the Liquidating Trustee to instead use the funds from a  
7 Lehman Post-Confirmation Loan in the form of new Cash from a Lehman Lender and to pay a like  
8 amount of Cash Collateral securing a Lehman Loan towards a reduction of such Lehman Loan, as  
9 the Lehman Lender directs, provided, however, that such use of Cash Collateral shall not itself be a  
10 Lehman Post-Confirmation Loan and, if such use occurs before termination of the Lehman Post-  
11 Confirmation Loan, the \$5 million maximum Cash commitment of the Lehman Lenders with  
12 respect to the Lehman Post-Confirmation Loans shall increase by the amount of Cash Collateral so  
13 used to pay a Lehman Loan.

#### 14 **7.5.3 Terms and Documentation of Lehman Post-Confirmation Loans.**

15 The Liquidating Trustee shall reasonably execute all documents reasonably requested by a  
16 Lehman Lender to evidence the Lehman Post-Confirmation Loan and the Liens securing it on terms  
17 and in a form reasonably requested by such Lehman Lender, with customary and reasonable  
18 provisions for interest, fees and expenses thereupon. The Lehman Post-Confirmation Loan is  
19 Allowed in the amount of all funding by or on behalf of any Lehman Lender with respect thereto  
20 plus interest, fees, expenses and other charges as provided herein and in the documentation thereof.  
21 The Lehman Post-Confirmation Loan shall be an obligation of the Liquidating Trustee, payable as  
22 provided herein and secured by a self-effectuating, first priority Lien on the Post-Confirmation  
23 Accounts, Plan Reserve and all proceeds of the Plan Debtors' Assets. The Lehman Post-  
24 Confirmation Loan is payable as set forth under the Lehman Plan, provided that, in all events, the  
25 Lehman Post-Confirmation Loan shall terminate and the Liquidating Trustee shall pay the Lehman  
26 Post-Confirmation Loan and all related interest, fees, expenses and other charges in full no later  
27 than sixty (60) days following the settlement and/or final determination of the Project Related  
28 Actions; provided, further, that to the extent such Lehman Post-Confirmation Loan is made with

1 funds comprising Cash Collateral of a Lehman Creditor and any applicable Lehman Creditor's  
2 Claim secured by a Lien upon such Cash Collateral is subordinated or set aside by a Project Related  
3 Action Recovery, repayment of such portion of the Lehman Post-Confirmation Loan funded with  
4 funds comprising Cash Collateral, or interest thereon, shall be effectuated by offset, dollar for  
5 dollar, against the benefits, recoveries and proceeds otherwise afforded by such Project Related  
6 Action Recovery.

7 **7.6 Plan Reserve and Post-Confirmation Accounts.**

8 In order to, among other things, provide for a source of recovery in respect of Non-Settled  
9 ES Claims should an ES Judgment be obtained for the benefit of the Holders of such Non-Settled  
10 ES Claims, and in respect of the applicable Estates and their Creditors should a Cross-  
11 Collateralization Judgment be obtained for the benefit of such Creditors, the Lehman Lenders are  
12 making available Cash on which the Lehman Creditors claim a Lien. Specifically, (a) on the  
13 Effective Date, all Cash of the Estates of the Plan Debtors not otherwise distributed in accordance  
14 with the Plan shall be held by the Liquidating Trustee either in the Plan Reserve or a Post-  
15 Confirmation Account pending payment of any Post-Confirmation Expenses or distribution in  
16 accordance with the Plan, (b) on and after the Effective Date, all Cash Collateral of the Lehman  
17 Creditors shall be deposited by the Liquidating Trustee into the Plan Reserve, pending distribution  
18 or payment in accordance with the Plan, (c) all new Cash transfers from or on behalf of a Lehman  
19 Lender that are proceeds of or comprising a Lehman Post-Confirmation Loan shall be deposited in  
20 or held in the Plan Reserve until utilized in accordance with the Lehman Plan, and (d) on and after  
21 the Effective Date, the Lehman Lenders shall have a Lien and/or retain their Lien on all Cash in the  
22 Plan Reserve, which Cash also shall serve, among other things, as a reserve for satisfaction of a  
23 Project Related Action Recovery and shall be a component of the PRA Recovery Security Pool.  
24 The applicable Lehman Creditor shall report the Cash Collateral held in the Plan Reserve as being  
25 owned by it for all applicable federal, state and local income tax purposes. The Liquidating Trustee  
26 shall distribute, or cause to be distributed, forty five percent (45%) of all income and gain earned  
27 with respect to amounts in the Plan Reserve no less than annually and prior to any such amounts  
28 being otherwise distributed pursuant to the Plan.



1           **7.7     Disposition of Assets**

2           The Assets of the Estates of the Plan Debtors consist primarily of certain Remaining Real  
3     Estate Projects and certain Cash that is Cash Collateral for Lehman Secured Claims. There also  
4     may be certain Remaining Other Assets, including Litigation Claims. (Litigation Claims possibly  
5     could result in affirmative recoveries for the Estates or possibly could reduce the size of the  
6     Creditor Claims to share in available Cash for distribution.)

7                       **7.7.1     Litigation Claims, Net Cash Litigation Recoveries and Remaining**  
8     **Other Assets.**

9           The Remaining Other Assets (other than Cash) shall be liquidated by the Liquidating  
10    Trustee, and the Net Cash Proceeds therefrom shall be available for payment of Claims and  
11    Creditors in accordance with the Plan. Pursuant to Section 1123(b)(3) of the Bankruptcy Code and  
12    subject to the compromises, waivers and releases provided herein, the Liquidating Trustee shall  
13    retain all Litigation Claims whether or not pending on the Effective Date. Unless a Litigation Claim  
14    is expressly waived, relinquished, released, compromised or settled in the Lehman Plan or in a  
15    Final Order, all rights with respect to such Litigation Claims are reserved and the Liquidating  
16    Trustee may pursue such Litigation Claims. The Liquidating Trustee shall not settle or abandon a  
17    Litigation Claim valued at greater than \$100,000 without a Lehman Lender's consent and absent  
18    providing ten (10) days' prior written notice and opportunity to object to the Committees; and the  
19    Lehman Lenders may pursue any Litigation Claim for the applicable Estate or Estates that, upon  
20    request, the Trustee does not agree to pursue. Any disputes concerning the settlement or  
21    abandonment of a Litigation Claim shall be submitted to the Bankruptcy Court for resolution on no  
22    less than ten (10) days' notice to the objecting party. All Net Cash Litigation Recoveries realized  
23    or obtained in respect of Litigation Claims of the Estates shall be promptly deposited into the Post-  
24    Confirmation Account(s) or Plan Reserve, as appropriate. Except as otherwise provided in the  
25    Lehman Plan and the Confirmation Order, the Net Cash Litigation Recoveries shall be free and  
26    clear of all Liens and shall only be expended in accordance with the provisions of the Lehman Plan.

27           **7.8     Disposition of the Remaining Real Estate Projects.**

28           The disposition of the Remaining Real Estate Projects or related Assets shall be as follows:

**7.8.1 Lehman Plan Sale or Foreclosure Procedures.**

a. Upon the Effective Date, the Liquidating Trustee shall market for sale the Remaining Real Estate Projects and related Assets pursuant hereto.

b. Within sixty (60) days after the Effective Date, the Liquidating Trustee shall hold auctions on such dates and at such times and places as is reasonably established by the Liquidating Trustee, provided that all auctions shall occur no later than sixty (60) days after the Effective Date. At the auctions, the Remaining Real Estate Projects and related Assets for which there is a Successful Bidder shall be sold or conveyed to a third party purchaser, a Lehman Nominee, or another Holder of an Allowed Secured Claim who submits a qualifying bid and becomes the Successful Bidder in accordance herewith and pursuant to the further detailed procedures for such bidding and auctions, which detailed procedures shall be in a form acceptable to the Lehman Creditors and Liquidating Trustee or as reasonably proposed by the Lehman Lenders and approved by the Bankruptcy Court at or after the hearing on confirmation of the Plan, as may be modified after the Confirmation Date by agreement of the applicable Lehman Lenders or other owners and the Liquidating Trustee or approval of the Bankruptcy Court (the “Detailed Sale / Foreclosure Procedures”).

c. Pursuant to Bankruptcy Code Section 363 and the Lehman Plan, at the auction of each Remaining Real Estate Project, such Remaining Real Estate Project and all associated personal property, including the applicable Plan Debtor’s Estate’s right, title and interest in, to and under any development agreements, plans, engineering reports and community facilities district bonds, shall be sold (if to a third party purchaser) or conveyed pursuant to judicial foreclosure by virtue of the Confirmation Order (if to a Holder of an Allowed Secured Claim) to the highest bidder or its nominee free and clear of any Encumbrances (other than the Permitted Liens) with such Encumbrances (other than the Permitted Liens) not paid in connection with the transaction to attach to the consideration to be received by the Liquidating Trustee in the same priority and subject to the same defenses and avoidability, if any, as before the closing of the transaction. The Liquidating Trustee shall obtain a hearing date from the Bankruptcy Court at which the Bankruptcy Court shall issue an Order approving such sales or conveyances to the extent

consistent herewith and order that such sale or conveyance shall be free and clear of all Encumbrances (other than Permitted Liens) in accordance herewith. Consistent with each particular bid, debts and obligations secured by existing Encumbrances on said Remaining Real Estate Projects or related property at the time of sale or conveyance either shall be paid in full upon such sale or conveyance, attach to the Net Cash Proceeds with the same validity, priority and extent to which they attach to the underlying collateral (such as would occur with respect to the Lehman Secured Claims upon a sale to a third party purchaser) or be unimpaired in which case the Remaining Real Estate Projects or other assets sold or conveyed shall remain encumbered by the Encumbrances thereon securing the unimpaired debts and obligations and such Encumbrances would be Permitted Liens.

d. Subject to the terms of the Lehman Plan, the respective Lehman Creditors commit to credit bid the following "Initial Bids" at the auctions as to the indicated Assets and may elect hereafter to make the following "Contingent Bids" at the auctions with respect to the indicated Assets as set forth in the following table:

<b><u>LEHMAN CREDITORS' INITIAL BIDS AND CONTINGENT BIDS</u></b>					
<b><u>Initial Bid #;</u></b> <b><u>Cont. Bid Letter</u></b>	<b><u>Class</u></b>	<b><u>Claims</u></b>	<b><u>Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof Filed and Number).</u></b>	<b><u>Asset</u></b>	<b><u>Bid</u></b>
1	Class 2.3	Allowed Secured Claim of Lehman Commercial or its assignee or successor against SunCal Emerald arising from the SunCal Communities I Loan Agreement in the Allowed Amount of \$343,221,391.06.	SunCal Emerald; SunCal Emerald: 7	Emerald Meadows Project	Initial Bid: \$12 Million

2	Class 2.4	Allowed Secured Claim of Lehman Commercial or its assignee or successor against SunCal Bickford arising from the SunCal Communities I Loan Agreement in the Allowed Amount of \$343,221,391.06.	SunCal Bickford; SunCal Bickford: 16	Bickford Ranch Project	Initial Bid: \$29.5 Million
3	Class 2.6	Allowed Secured Claim of Lehman Commercial or its assignee or successor against Palmdale Hills arising from the Ritter Ranch Loan Agreement in the Allowed Amount of \$287,252,096.31.	Palmdale Hills; Palmdale Hills 65	Ritter Ranch Project	Initial Bid: \$42.9 Million
4	Class 2.12	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal Oak Knoll arising from the SunCal Oak Knoll/SunCal Torrance Loan Agreement in the Allowed Amount of \$158,141,364.64.	SunCal Oak Knoll; SunCal Oak Knoll: 12	Oak Knoll Project	Initial Bid: \$48 Million
5	Class 2.13	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal Torrance arising from the SunCal Oak Knoll/SunCal Torrance Agreement in the Allowed Amount of \$157,870,186.15.	SunCal Torrance; SunCal Torrance: 4	Del Amo Project	Initial Bid: \$25 Million
6	Class 2.14	Allowed Secured Claim of Lehman ALI or its assignee or successor against Delta Coves arising from the Delta Coves Loan Agreement in the Allowed Amount of \$206,023,142.48.	Delta Coves; Delta Coves 21	Delta Coves Project	Initial Bid: \$25.2 Million

7	Class 2.15	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal Marblehead arising from the SunCal Marblehead / SunCal Heartland Loan Agreement in the Allowed Amount of \$354,325,126.15.	SunCal Heartland; SunCal Heartland: 9	Marblehead Project	Initial Bid: \$187.5 Million
8	Class 2.16	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal Heartland arising from the SunCal Marblehead / SunCal Heartland Loan Agreement in the Allowed Amount of \$354,325,126.15.	SunCal Marblehead; SunCal Marblehead: 21	Heartland Project	Initial Bid: \$7.9 Million
9	Class 2.17	Allowed Secured Claim of OVC Holdings against SunCal Oak Valley arising from the SunCal Oak Valley Loan Agreement in the Allowed Amount of \$141,630,091.63.	SunCal Oak Valley; SunCal Oak Valley 16	Oak Valley Project	Initial Bid: \$20.9 Million
10	Class 2.18	Allowed Secured Claim of Northlake Holdings against SunCal Northlake arising from the Northlake Loan Agreement in the Allowed Amount of \$123,654,776.88.	SunCal Northlake; SunCal Northlake 6	Northlake Project	Initial Bid: \$23 Million
11	Class 2.19	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal PSV arising from the SunCal PSV Loan Agreement in the Allowed Amount of \$88,257,340.20.	SunCal PSV; SunCal PSV 12	Palm Springs Village Project	Initial Bid: \$13.8 Million
A	Class 2.1	Allowed Secured Claim of Lehman Commercial or its assignee or successor against SunCal I arising from the SunCal Communities I Loan	SunCal I; SunCal I: 1	SunCal Beaumont's Beaumont Heights Project	Contingent Bid: \$1.2 Million

		Agreement in the Allowed Amount of \$343,221,391.06.		SunCal Johannson's Johannson Ranch Project	Contingent Bid: \$2.1 Million
				SunCal Summit Valley's Summit Valley Project	Contingent Bid: \$750,000
B	Class 2.2	Allowed Secured Claim of Lehman Commercial or its assignee or successor against Acton Estates arising from the SunCal Communities I Loan Agreement in the Allowed Amount of \$343,221,391.06.	Acton Estates; Acton Estates: 6	Acton Project	Contingent Bid: \$3.4 Million
C	Class 2.5	Allowed Secured Claim of Lehman Commercial or its assignee or successor against SunCal Summit Valley arising from SunCal Communities I Loan Agreement in the Allowed Amount of \$343,221,391.06.	SunCal Summit Valley; SunCal Summit Valley: 12	Ownership Interests of Kirby Estates and Seven Brothers in Summit Valley Project	Contingent Bid: \$1.075 Million
D	Class 2.9	Allowed Secured Claim of Lehman ALI or its assignee or successor against SCC Communities, arising from the Interim Loan Agreement in the Allowed Amount of \$23,795,012.59.	SCC Communities; SCC Communities: 9	Joshua Ridge Project	Contingent Bid: \$1 Million
E	Class 2.11	Allowed Secured Claim of Lehman ALI or its assignee or successor against Tesoro rising from the Interim Loan in the Allowed Amount of \$23,795,012.59.	Tesoro; Tesoro: 7	Tesoro Project	Contingent Bid: \$1.5 Million

e. Qualifying bids by third party purchasers must be bids for payment in Cash. Other Holders of Allowed Secured Claims may credit bid such amount of their Allowed Secured Claims as agreed with the Liquidating Trustee or fixed by the Bankruptcy Court, in each case on a Project by Project basis. The bids of such other Holders of Allowed Secured Claims and

1 third party purchasers must comply with and be made consistent with the Detailed Sale /  
2 Foreclosure Procedures. If a qualifying bid or bids are received for any Project within forty-five  
3 (45) days after the Effective Date, such bids shall be Filed with the Bankruptcy Court by the  
4 Liquidating Trustee.

5 f. The Initial Bids and, if made by any Lehman Creditor (and subject to  
6 the following), the Contingent Bids, and any increased bids thereof by Lehman Creditors up to the  
7 outstanding amount of the applicable Lehman Loans as set forth in Article IV of the Lehman Plan,  
8 each shall be deemed fully qualifying and eligible bids for all purposes of such auctions and the  
9 Detailed Sale / Foreclosure Procedures. If no higher and better bid is made by another Holder of an  
10 Allowed Secured Claim or third party purchaser in accordance with the Detailed Sale / Foreclosure  
11 Procedures, the applicable Lehman Creditor shall be the Successful Bidder and the Liquidating  
12 Trustee shall convey the subject Project and related Assets to a Lehman Nominee in accordance  
13 herewith. The Lehman Nominee shall report the subject Project and related Assets as being owned  
14 by it for all applicable federal, state and local income tax purposes. If there is no Successful Bidder  
15 with respect to an Asset, the Liquidating Trustee need not sell or convey it pursuant to the Lehman  
16 Plan Sale or Foreclosure Procedures.

17 g. The Initial Bids are in the amount of the Lehman Creditors'  
18 previously appraised values for the subject Projects. The Contingent Bids are in the amounts of the  
19 Debtors' value estimates as set forth in the Debtors' Second Amended Disclosure Statement. The  
20 Contingent Bids relate to Assets as to which either (1) the Debtors have alleged that the Lien of the  
21 applicable Lehman Lender is subject to a Cross-Collateralization Claim or (2) a Lehman Lender  
22 holds a Lien on the equity interest in the owner of the Project, but not directly upon the Project  
23 itself.

24 h. Although a Lehman Creditor may at any time elect to bid Cash for an  
25 Asset on the same terms as other third parties, for bids made through the Initial Bids and, if the  
26 applicable Lehman Creditors elect to make them, bids made through the Contingent Bids, Creditors  
27 are protected, as and to the extent provided herein:  
28

(1) Any Remaining Real Estate Project which is conveyed to a Lehman Nominee pursuant to the Lehman Plan Sale or Foreclosure Procedures pursuant to an Initial Bid or Contingent Bid or increased bid therefrom, as set forth above (each a “PRA Security Project”) shall be encumbered by a PRA Recovery Deed of Trust and such Lehman Nominee shall execute a Reconveyance Agreement.

(2) Contingent Bids B, D and E, identified in the table above, relate to three Remaining Real Estate Projects as to which the Debtors have alleged that the Lien of the Lehman Lender is subject to a Cross-Collateralization Claim. If a Lehman Creditor is a Successful Bidder pursuant to Contingent Bid B, D or E, a reconveyance obligation for a Cross-Collateralization Judgment will apply as to such Project as set forth herein and such obligation will be secured by a PRA Recovery Deed of Trust (which shall be released as provided herein).

(3) Contingent Bids A and C, identified in the table above, relate to three Remaining Real Estate Projects as to which a Lehman Lender holds a Lien on the equity interests in the owners of such Remaining Real Estate Projects, but not directly upon the Remaining Real Estate Projects. Contingent Bids A and C are in the amount of the Debtors’ estimate of value for the applicable Remaining Real Estate Project set forth in the Debtors’ Second Amended Disclosure Statement. They will include a Cash portion equal to the full amount of the bid, or, if less, 110% of the aggregate amount of all non-Lehman Creditor Claims against the particular Plan Debtor owning the subject Remaining Real Estate Project as estimated in the Debtors’ Second Amended Disclosure Statement. The Cash portions of Contingent Bids A and C, identified in the table above, for these three Remaining Real Estate Projects, divided among the five Plan Debtor owners thereof, are as follows: Beaumont Heights Project (owned by SunCal Beaumont): \$689,200 Cash; Johannson Ranch Project (owned by SunCal Johannson): \$165,427 Cash; Summit Valley Project (the portion owned by SunCal Summit Valley): \$750,000 Cash (entire bid); Summit Valley Project (the portion owned by Kirby Estates): \$2,000 Cash; and Summit Valley Project (the portion owned by Seven Brothers): \$66,911 Cash.



1                   **7.8.2       Net Proceeds from Sales of Remaining Real Estate Projects to Third**  
2 **Party Purchasers.**

3           If a Remaining Real Estate Project subject to a Lehman Lender's Lien is sold to a third  
4 party purchaser (rather than sold or conveyed to a Lehman Nominee), as to the Net Cash Proceeds  
5 therefrom, the Liquidating Trustee shall hold such Net Cash Proceeds in the Plan Reserve and, as to  
6 non-Cash Net Proceeds to the Liquidating Trustee therefrom, the applicable Lehman Lenders shall  
7 be afforded a substitute Liens on such non-Cash Net Proceeds.

8                   **7.8.3       PRA Recovery Security Pool.**

9                   **(a)       Generally.**

10           The Lehman Lenders dispute or may dispute all or substantially all of the Equitable  
11 Subordination Claims and the Cross-Collateralization Claims. If, however, some recovery were  
12 afforded to the Liquidating Trustee for the Estates in respect of the Equitable Subordination Claims  
13 in an ES Action or the Cross-Collateralization Claims in a Cross-Collateralization Action (*i.e.*, a  
14 Project Related Action Recovery), and if a variety of other litigation hurdles were overcome, the  
15 values of the Remaining Real Estate Projects against which Lehman Creditors hold Secured Claims  
16 and on which Lehman Creditors are bidding and may bid possibly would be available to satisfy the  
17 Project Related Action Recovery. Thus, to secure the satisfaction of a Project Related Action  
18 Recovery and thereby protect the Estates of the Plan Debtors and their Creditors (1) certain Cash is  
19 to be held by the Liquidating Trustee in the Plan Reserve and the remainder therefrom shall be  
20 available to satisfy such Project Related Action Recovery to the extent otherwise provided under  
21 the Lehman Plan and (2) any Remaining Real Estate Project that is conveyed to a Lehman Nominee  
22 pursuant to the Lehman Plan Sale or Foreclosure Procedures shall be subject to a PRA Recovery  
23 Deed of Trust (collectively, the "PRA Recovery Security Pool.")

24           At any time that the Plan Reserve contains an amount equal to the Maximum PRA  
25 Recovery Amount, by voluntary payment of a Lehman Related Party or otherwise, the Liquidating  
26 Trustee shall terminate all Reconveyance Agreements, release and reconvey to the applicable  
27 Lehman Nominees all PRA Recovery Deeds of Trust and release to the applicable Holders of the  
28 Lehman Secured Claims and all Lehman Nominees (who shall determine the allocation of the funds

1 amongst them) all funds in the Plan Reserve in excess of the Maximum PRA Recovery Amount.  
2 At any time that all Project Related Actions that were timely Filed and Filed no later than sixty (60)  
3 days following the Effective Date either (I) have been dismissed with prejudice and/or settled or  
4 (II) the Project Related Action Recovery with respect thereto as against the applicable Lehman  
5 Related Parties has been fully satisfied, the Liquidating Trustee, upon the request of the applicable  
6 Lehman Related Parties, shall terminate all Reconveyance Agreements, release and reconvey to the  
7 applicable Lehman Nominees all PRA Recovery Deeds of Trust and release to the applicable  
8 Holders of the Lehman Secured Claims and all Lehman Nominees (who shall determine the  
9 allocation of the funds amongst them) all funds in the Plan Reserve.

10 **(b) PRA Recovery Deeds of Trust.**

11 Upon conveyance of a Remaining Real Estate Project to one or more Lehman Nominees in  
12 connection with the Lehman Plan Sale or Foreclosure Procedures, the Lehman Lenders will cause  
13 the applicable Lehman Nominees taking title to the applicable PRA Security Project to record a  
14 PRA Recovery Deed of Trust. The Liquidating Trustee shall be the named beneficiary under any  
15 PRA Recovery Deed of Trust and, in his or her sole discretion, may delay, defer or waive receipt of  
16 the benefits or the recording thereof as to one or more Remaining Real Estate Projects. Each PRA  
17 Recovery Deed of Trust is being given solely for the purpose of creating a Lien on the applicable  
18 PRA Security Project to be part of the PRA Recovery Security Pool and nothing contained therein  
19 shall in any way restrict or interfere with the rights of the owner of such PRA Security Project,  
20 including, without limitation, such owner's right to own, manage, operate, improve, sell, convey,  
21 refinance, encumber and otherwise deal with such PRA Security Project.

22 Each PRA Recovery Deed of Trust shall secure the non-recourse obligation of each Lehman  
23 Nominee who is the owner of each relevant PRA Security Project to reconvey the applicable PRA  
24 Security Project to the Liquidating Trustee in the event of a Project Related Action Recovery,  
25 subject to the terms of the Reconveyance Agreements and subject to the option of the Lehman  
26 Nominee to pay in Cash the amount of the Project Related Action Recovery in lieu of effectuating  
27 such reconveyance. In aggregate, the PRA Security Deeds of Trust secure an amount not in excess  
28 of the Maximum DOT Security Amount.

Each PRA Recovery Deed of Trust shall also provide that the applicable Lehman Nominee will not cause, through an affirmative action on its part (as opposed to any inaction or failure to act), any hazardous substances to be deposited onto the applicable PRA Security Project encumbered by such PRA Recovery Deed of Trust at any time following the acquisition of title to such PRA Security Project by such Lehman Nominee and prior to the sale of such PRA Security Project; provided, however, that the Lehman Nominee shall have no obligation to (1) clean up, remove or remediate any existing hazardous substances (including, without limitation, any asbestos, mold or petroleum products) which may be present on or within such PRA Security Project or which may be emanating therefrom as of the date of the conveyance of such property to such Lehman Nominee or (2) take any action or incur any expense to prevent hazardous substances from existing or being present on or within such PRA Security Project or from otherwise emanating therefrom except as specifically provided above (the “Negative Covenant”). If such Lehman Nominee fails to comply with the foregoing Negative Covenant for thirty (30) days following written notice and an opportunity to cure, then the Liquidating Trustee shall have the right to seek damages against Lehman ALI and Lehman Commercial, jointly and severally, and any claims arising from the pursuit of such remedies shall be treated as administrative expense claims in Lehman Commercial’s bankruptcy case and, if Lehman ALI is then subject to its own bankruptcy proceeding, Lehman ALI shall use its best efforts to afford the same administrative priority to such claims in any such bankruptcy case. Any payments made or assets seized in satisfaction of any judgment based on such damage claims shall be deposited into the Plan Reserve. In addition, if a Lehman Nominee fails to pay or cause to be paid any property taxes or assessments due and payable with respect to the PRA Security Project owned by such Lehman Nominee on or prior to the date which is six (6) months prior to the earliest date on which a foreclosure of such PRA Security Project could be effectuated for non-payment of property taxes or assessments, then the Liquidating Trustee shall have the right to make a protective advance for the payment of such taxes or assessments and to foreclose upon the applicable PRA Recovery Deed of Trust encumbering such PRA Security Project in order to repay any such outstanding protective advance; provided that any proceeds of any such foreclosure sale and any interest acquired by the Liquidating Trustee in

1 connection with any such foreclosure sale shall be deposited into the Plan Reserve pending the  
2 completion of the Project Related Actions.

3 (c) **Reconveyance Agreements.**

4 The non-recourse performance obligations for turnover and reconveyance of each PRA  
5 Security Project secured by the applicable PRA Recovery Deed of Trust shall be in a writing (each,  
6 a “Reconveyance Agreement”), which writing is to be executed by the applicable Lehman Nominee  
7 that takes ownership of the subject PRA Security Project and shall be in a form acceptable to the  
8 Lehman Lenders or Lehman Nominee and Liquidating Trustee or as reasonably proposed by the  
9 Lehman Lenders or Lehman Nominee and approved by the Bankruptcy Court at or after the hearing  
10 on confirmation of the Lehman Plan, as may be modified after the Confirmation Date by agreement  
11 of the applicable Lehman Nominee or other owner of the applicable PRA Security Project and  
12 Liquidating Trustee or approval of the Bankruptcy Court. At a Lehman Nominee’s election, such  
13 non-recourse obligations, instead may be satisfied by a Cash payment in the amount of any  
14 applicable Project Related Action Recovery.

15 The obligations to reconvey a particular PRA Security Project following the occurrence of,  
16 and in satisfaction of, a Cross-Collateralization Judgment or an ES Judgment are distinct. The  
17 reconveyance obligation with respect to an ES Judgment shall be included in each Reconveyance  
18 Agreement. The reconveyance obligation with respect to a Cross-Collateralization Judgment shall  
19 be included only in the Reconveyance Agreement related to the PRA Security Project as to which a  
20 Cross-Collateralization Claim is alleged in a Cross-Collateralization Action. The benefits of the  
21 reconveyance obligations with respect to ES Judgments, if any, are themselves to be cross-  
22 collateralized, to the extent provided herein, by virtue of the concessions being made by the  
23 Lehman Creditors to benefit Non-Settling ES Claimants as described in Section 7.8.5(b) of the  
24 Plan. A reconveyance obligation with respect to a Cross-Collateralization Judgment, if any, shall  
25 only apply with respect to the particular PRA Security Project as to which the Lien of the  
26 applicable Lehman Creditor is avoided by the Cross-Collateralization Judgment and the benefits  
27 thereof, if any, only shall inure to the Holders of Allowed Claims against the Plan Debtor that  
28 owned such PRA Security Project as provided in Section 7.9.2 of the Plan. Nonetheless, for PRA

1 Security Projects as to which the Reconveyance Agreement contains obligations to reconvey for  
2 both an ES Judgment and a Cross-Collateralization Judgment, the distribution priorities as to the  
3 Net Cash Proceeds from the disposition of the reconveyed PRA Security Project, set forth in  
4 Section 7.9.2 of the Plan, give priority to the Cross-Collateralization Judgment, which in theory  
5 would be setting aside the Lien as to which the related ES Judgment seeks to transfer the now  
6 extinguished benefits.

7 **(d) Release of PRA Recovery Deeds of Trust.**

8 The PRA Recovery Deeds of Trust generally shall remain in effect pending the final  
9 settlement or determination of the Project Related Actions. Thus, all PRA Recovery Deeds of Trust  
10 shall be released and reconveyed and all Reconveyance Agreements shall be terminated upon:

- 11 (1) the dismissal, with prejudice, and/or settlement of all Project Related Actions against  
12 the applicable Lehman Related Parties, or  
13 (2) full satisfaction of each Project Related Action Recovery as against the applicable  
14 Lehman Related Parties.

15 Additionally, in order to permit the Lehman Nominees holding title to the PRA Security  
16 Projects to fully utilize such properties:

- 17 A. all of the PRA Recovery Deeds of Trust shall be released and all Reconveyance  
18 Agreements terminated at such time as the balance of funds in the Plan Reserve  
19 is equal to the Maximum PRA Recovery Amount; and  
20 B. the PRA Recovery Deed of Trust encumbering a particular PRA Security Project  
21 shall be released and the corresponding Reconveyance Agreement terminated  
22 upon the sale of such Project to a third party and the deposit of any Net Cash  
23 Proceeds resulting from such sale into the Plan Reserve and/or the provision of a  
24 substitute Lien on any non-Cash Net Proceeds resulting from such sale; and  
25 C. the PRA Recovery Deed of Trust encumbering a particular PRA Security  
26 Project shall be subordinated to the Lien of a new mortgage loan upon a  
27 refinancing of the particular PRA Security Project obtained by the applicable  
28 Lehman Nominee in its sole and absolute discretion, provided that all Net Cash

Proceeds derived from such refinancing are deposited into the Plan Reserve.

Whenever Lien releases or subordinations are required, the Liquidating Trustee shall act reasonably in arranging to provide, and in executing such documents as the applicable Lehman Nominee reasonably requests to effectuate, the reconveyance in full of the PRA Recovery Deeds of Trust.

**(e) Reduction of Maximum PRA Recovery Amount.**

The Maximum PRA Recovery Amount, which serves as the maximum aggregate amount secured by the PRA Recovery Security Pool, is an amount intended to be not less than the maximum potential cash value of the Project Related Action Recovery. For the calculation of the Maximum PRA Recovery Amount, the definition thereof herein includes, unless rebutted with lower figures, presumptions that the maximum cash value of the potential Project Related Action Recovery for Cross-Collateralization Judgments is \$1.74 million and for ES Judgments is \$200 million. If, however, a Lehman Lender Files a motion with the Bankruptcy Court and provides relevant evidence, as follows, the Maximum PRA Recovery Amount shall be reduced accordingly:

(1) to replace the amount used in subparagraph (a) of the definition of Maximum PRA Recovery Amount (Section 2.1.141 of the Plan), the Bankruptcy Court must find that a lower number results upon determining (I) the lesser of (A) the maximum cash value, if any, of the Lehman Secured Claims alleged to be subject to being set aside pursuant to a Cross-Collateralization Judgment, which Secured Claims are against any of the Acton Project, Joshua Ridge Project or Tesoro Project as is conveyed to a Lehman Nominee upon a credit bid and (B) the maximum Claims (other than Claims of Lehman Creditors) against Acton Estates, SCC Communities or Tesoro (as to which Plan Debtors, there are pending Cross-Collateralization Claims in a pending Cross-Collateralization Action against a Lehman Related Party and the Project owned by such Estate has been conveyed to a Lehman Nominee pursuant to a credit bid), and (II) subtracting from such amount the value of all direct or indirect benefits to the subject Plan Debtor resulting from the subject Lehman Loan; and/or

(2) to replace the amount used in subparagraph (b)(i) of the definition of Maximum PRA Recovery Amount (Section 2.1.141 of the Plan), the Bankruptcy

1 Court finds that a lower number results upon determining (I) the lesser of (A) the maximum cash  
2 value of the Lehman Secured Claims in the Plan Debtors' Assets that are alleged to be subject to  
3 subordination pursuant to an ES Judgment and (B) the maximum Claims (other than Claims of  
4 Lehman Creditors) against the Plan Debtors (as to which there are pending allegations in an ES  
5 Action that a Lehman Secured Claim is subject to subordination).

6 **7.8.4 Sale or Refinance of PRA Security Projects.**

7 a. The Lehman Nominee(s) will have full right to sell and/or refinance  
8 the PRA Security Projects in all respects after the conveyance thereof to the Lehman Nominee(s)  
9 pursuant to the Lehman Plan Sale or Foreclosure Procedures without any interference by the  
10 Liquidating Trustee, SunCal, the Trustee, the Debtors or any of their respective Affiliates or any ES  
11 Claimants or other Creditors of the applicable Plan Debtors.

12 b. If any particular PRA Security Project is thereafter sold by a Lehman  
13 Nominee other than to a Lehman Related Party, (a) the Liquidating Trustee shall release the PRA  
14 Recovery Deed(s) of Trust as to such PRA Security Project, (b) the Net Cash Proceeds derived  
15 from such sale shall be deposited into the Plan Reserve, and (c) the Lehman Nominee shall grant  
16 the Liquidating Trustee a substitute Lien in any non-Cash Net Proceeds received by such Lehman  
17 Nominee to become part of the PRA Recovery Security Pool and to be subject to the same terms as  
18 other PRA Recovery Deeds of Trust.

19 c. If any particular PRA Security Project is refinanced by the Lehman  
20 Nominee, (a) the Liquidating Trustee shall agree to subordinate the PRA Recovery Deed(s) of Trust  
21 as to such PRA Security Project so as to permit the imposition on the PRA Security Project of a  
22 new senior refinancing Lien, and (b) the Net Cash Proceeds derived from such refinancing shall be  
23 deposited into the Plan Reserve.

24 d. If any particular PRA Security Project is sold by a Lehman Nominee  
25 to another Lehman Related Party, then either (x) such sale may be made subject to the PRA  
26 Recovery Deed(s) of Trust (which shall be mandatory if the transferee is a Lehman Creditor Party),  
27 or (y) all of the following shall apply: (1) there shall be deposited into the Plan Reserve all Net  
28 Cash Proceeds received by the Lehman Nominee in connection with such transfer, (2) the

Liquidating Trustee shall be granted a substitute Lien on any non-Cash Net Proceeds received by a Lehman Nominee in connection with such transfer and (3) a Lien either (I) against the equity interest in the joint venture or similar entity of the Lehman Nominee or (II) against the most direct interest held by a Lehman Nominee, shall be granted to the Liquidating Trustee and the Lien so granted shall become part of the PRA Recovery Security Pool and be subject to the same terms as the PRA Recovery Deeds of Trust.

e. As to any Remaining Real Estate Projects not sold or conveyed pursuant to the Lehman Plan Sale or Foreclosure Procedures: (i) they shall be otherwise liquidated by the Liquidating Trustee or may be abandoned or surrendered with the consent of the Lehman Lenders and after approval of the Bankruptcy Court; (ii) such Remaining Real Estate Projects may be sold free and clear of Encumbrances other than Permitted Liens for Cash, or on such other terms to which the Holder of an Allowed Secured Claim with respect thereto consents; (iii) the Holder of any such Allowed Secured Claim (including any applicable Holder of any Lehman Secured Claim) shall receive at least thirty (30) days' prior notice of any proposed sale and may elect to credit bid in response to such notice up to the full amount of its Claim for which the item being sold is collateral (without the amount bid being limited to the value of the Holder's interest in such collateral); (iv) if the Remaining Real Estate Project is sold to a third party purchaser, promptly upon receipt thereof by the Liquidating Trustee, the Net Cash Proceeds (and any non-Cash Net Proceeds) therefrom shall be paid or turned over to the Holders of Allowed Secured Claims against such Remaining Real Estate Project up to the full amount of each such Holder's Allowed Claim (or used in payment of other Claims as otherwise set forth in the Lehman Plan in respect of the treatment of such Allowed Secured Claims) and any remaining Net Cash Proceeds shall be used to pay other obligations of the applicable Plan Debtor's Estate in the priorities set forth in Section 7.9.2(b) of the Plan.

## **7.9 Equitable Subordination Claims**

### **7.9.1 Generally.**

As set forth in Section 5.8, ES Claimants are afforded the option to vote either for acceptance of the ES Settlement Offer and the specified benefits it provides or to have the



Liquidating Trustee continue prosecution of the Equitable Subordination Claims for their potential benefit.

**7.9.2 ES Settlement Offer.**

**(a) Payments to ES Settling Claimants.**

The Settling ES Claimants are to receive the ES Pro Rata Settlement Payments as and to the extent set forth in Section 5.8.

**(b) Releases and Assignments.**

In exchange for the ES Pro Rata Settlement Payments: (A) the Liquidating Trustee will issue an Estate ES Settlement Release as to each Estate in which any Settling ES Claimant holds its Allowed ES Claim; (B) each Settling ES Claimant will issue an ES Claimant Release and Assignment; and (C) if there is Estate Acceptance of the ES Settlement as to all applicable Estates of the ES Plan Debtors, the Liquidating Trustee also will dismiss (with prejudice), as to the Estates of all ES Plan Debtors, any ES Action, with each party to bear its own costs and fees.

**(i) Estate ES Settlement Release.**

In exchange for the commitment of the Lehman Lenders under the Plan to make available funding for the ES Pro Rata Settlement Payments from, among other sources, Cash Collateral of the Lehman Creditors, as of the Effective Date, the Estate of each Plan Debtor as to which there is a Settling ES Claimant, on behalf of itself and its Affiliates exclusive of other Debtors herein, shall be deemed to unconditionally, irrevocably and generally release, acquit and forever discharge, waive and relinquish any and all causes of action, actions, rights of action, suits, judgments, liens, indebtedness, damages, losses, claims, liabilities, obligations, attorneys' fees, costs, expenses and demands of every kind and character, whether known or unknown, suspected or unsuspected, disclosed or undisclosed, including without limitation any Litigation Claims, whether for damages, subordination or other remedies, and including any and any objections or defenses to Lehman Related Party's Claims, Liens, rights, or causes of action, to the extent attributable to the ES Claims of the Settling ES Claimants or to the extent that the Net Cash Litigation Recoveries therefrom would be payable in respect of the ES Claims of the Settling ES Claimants, from and against all Lehman Releasees and all and any owners of the applicable Project(s) (that were at any time owned

1 by the Plan Debtor of the releasing Estate), including the Lehman Nominees, which owners are or  
2 were successors or assigns of the applicable Debtor, or any of them, and their subsidiaries and their  
3 respective officers, directors, employees, agents, predecessors, successors, assigns, representatives,  
4 attorneys and other professionals, or their properties.

5 The releases given above include an express, informed, knowing and voluntary waiver and  
6 relinquishment to the fullest extent permitted by law of rights under Section 1542 of the California  
7 Civil Code, which reads as follows, and under any similar or comparable laws anywhere in the  
8 world:

9 **A general release does not extend to claims which the creditor**  
10 **does not know or suspect to exist in his favor at the time of**  
11 **executing the release, which if known by him must have**  
12 **materially affected his settlement with the debtor.**

13 While the Confirmation Order, without more, shall effectuate the release, waiver and  
14 relinquishment described or referenced in this section for the Lehman Releasees and successor  
15 owners of the specified Projects, in accordance herewith, the Lehman Releasees also shall be  
16 entitled to the issuance of a separate written release, waiver and relinquishment by the Liquidating  
17 Trustee in a form acceptable to the Lehman Lenders and Liquidating Trustee or as reasonably  
18 proposed by the Lehman Lenders and approved by the Bankruptcy Court at or after the hearing on  
19 confirmation of the Lehman Plan.

20 **(ii) ES Claimant Release and Assignment.**

21 In exchange for the commitment of the Lehman Lenders under the Plan to make available  
22 funding for the ES Pro Rata Settlement Payments from, among other sources, Cash Collateral of the  
23 Lehman Creditors as of the Effective Date, in returning its Ballot accepting the ES Settlement  
24 Offer, each Settling ES Claimant by Vote, on behalf of itself and its Affiliates, shall be deemed to  
25 unconditionally, irrevocably and generally release, acquit and forever discharge, waive and  
26 relinquish any and all causes of action, actions, rights of action, suits, judgments, liens,  
27 indebtedness, damages, losses, claims, liabilities, obligations, attorneys' fees, costs, expenses and  
28 demands of every kind and character, whether known or unknown, suspected or unsuspected,  
disclosed or undisclosed, including without limitation any Litigation Claims, whether for damages,

1 subordination or other remedies, and including any and any objections or defenses to Lehman  
2 Related Party's Claims, Liens, rights, or causes of action, to the extent attributable to the ES Claims  
3 of such Settling ES Claimant or to the extent that the Net Cash Litigation Recoveries therefrom  
4 would be payable in respect of the ES Claims of such Settling ES Claimant (collectively, the "ES  
5 Claimant Released Claims"), from and against all Lehman Releasees and all and any owners of the  
6 applicable Project(s) (that were at any time owned by the Plan Debtor of the Estate against which  
7 the applicable Allowed ES Claim is asserted), including the Lehman Nominees, which owners are  
8 or were successors or assigns of the applicable Debtor, or any of them, and their subsidiaries and  
9 their respective officers, directors, employees, agents, predecessors, successors, assigns,  
10 representatives, attorneys and other professionals, or their properties, and, to the extent such ES  
11 Claimant Released Claims are owned by the Estate of a Plan Debtor and cannot be released by the  
12 ES Claimant, assigns to the applicable Lehman Lender (or if multiple applicable Lehman Lenders,  
13 the Lehman Lender holding the most senior Lien against the applicable Estate's Project), all rights,  
14 benefits and interests of the Settling ES Claimant with respect to such ES Claimant Released  
15 Claims, including the Litigation Recoveries that otherwise would be due therefrom to, or  
16 attributable to the ES Claims of, the Settling ES Claimants.

17 The releases given above include an express, informed, knowing and voluntary waiver and  
18 relinquishment to the fullest extent permitted by law of rights under Section 1542 of the California  
19 Civil Code, which reads as follows, and under any similar or comparable laws anywhere in the  
20 world:

21 **A general release does not extend to claims which the creditor**  
22 **does not know or suspect to exist in his favor at the time of**  
23 **executing the release, which if known by him must have**  
**materially affected his settlement with the debtor.**

24 While the Confirmation Order, without more, shall effectuate the release, waiver and  
25 relinquishment described or referenced in this section for the Lehman Releasees and all successor  
26 owners of the specified Projects, in accordance herewith, the Lehman Releasees also shall be  
27 entitled to the issuance of a separate written release, waiver and relinquishment by the Settling ES  
28 Claimant by Vote in the form set forth on, or attached to, the Ballot.

**7.9.3 Continued Prosecution of Equitable Subordination Claims.**

Unless all of the Estates of the ES Plan Debtors accept the ES Settlement Offer (through the acceptance of the ES Settlement Offer by at least one-half in number and two-thirds in amount of the voting ES Claimants of each such ES Plan Debtor's Estate), resulting in a dismissal (with prejudice), release and settlement of all Equitable Subordination Claims as to all ES Plan Debtors' Estates, the Liquidating Trustee may continue prosecution of the Equitable Subordination Claims in an ES Action seeking any alleged damages, subordination or other remedies that may be available for the benefit of and attributable to the ES Claims of any Non-Settling ES Claimants, subject to the Plan Release and as determined by the court with jurisdiction over such actions; provided, that the PRA Recovery Security Pool will be the sole source for recovery on an ES Judgment, unless a Lehman Lender elects to pay Cash in lieu thereof.

**(a) ES Litigation Loan.**

i. Unless the Equitable Subordination Claims in an ES Action are fully settled as to all ES Plan Debtors' Estates (*i.e.*, there is Estate Acceptance of the ES Settlement for all ES Plan Debtors' Estates), a Lehman Lender will make available to the Liquidating Trustee the ES Litigation Loan in the aggregate principal amount of up to \$1 million for the Estates of those ES Plan Debtors for which the Liquidating Trustee continues to prosecute Equitable Subordination Claims. The ES Litigation Loan will accrue interest at a 10% annual rate (compounded annually). The proceeds of the ES Litigation Loan may be used solely for the payment of ES Litigation Expenses if and only if there is no Available Cash in the Post-Confirmation Accounts to fund the ES Litigation Expenses and SunCal and its principals decline to continue paying the cost of prosecuting the Equitable Subordination Claims in an ES Action.

ii. The ES Litigation Loan shall be made available by a Lehman Lender to the Liquidating Trustee as the ES Litigation Expenses are incurred and shall be funded no more frequently than on a monthly basis. The Liquidating Trustee shall provide the Lehman Lender with reasonable substantiation and backup (including invoices and statements from the parties to be paid) for any ES Litigation Expenses to be paid with the proceeds of the ES Litigation Loan in connection with any request to the Lehman Lender for an advance of proceeds of the ES Litigation

1 Loan; provided, however, that the Liquidating Trustee shall not be required to provide any  
2 substantiation or backup to the Lehman Lender that discloses, directly or indirectly, information or  
3 communications that are subject to attorney-client privilege or attorney work product or contains  
4 any other privileged or confidential information or strategies of the Liquidating Trustee with  
5 respect to an ES Action.

6       iii.       ES Litigation Proceeds shall be made available to pay Allowed Non-Settled ES  
7 Claims only after repayment of the ES Litigation Loan, together with interest thereon at an annual,  
8 compounded rate of interest equal to 10%; provided, that such repayment may be made without any  
9 prejudice to the right of the prevailing party to seek reasonable fees and costs from the non-  
10 prevailing party in an ES Action. Such repayment shall be from sources other than Cash Collateral  
11 to which the applicable Lehman Creditor otherwise is entitled.

12       iv.       At the election of a Lehman Lender, (1) the ES Litigation Loan may be funded from  
13 Cash Collateral of a Lehman Creditor, (2) the ES Litigation Loan may be funded from a transfer of  
14 new Cash from a Lehman Lender or (3) a Lehman Lender may direct that the Liquidating Trustee  
15 use, for the ES Litigation Loan, funds in the form of new Cash from one or another Lehman  
16 Creditor and pay a like amount of Cash Collateral securing a Lehman Loan towards reduction of  
17 such Lehman Loan, as the Lehman Lender directs.

18                       **(b)       Concessions by Lehman Lenders to Facilitate Collection of ES**  
19 **Judgments.**

20                       Although the Lehman Lenders believe they will defeat any Equitable  
21 Subordination Claims in an ES Action, to further incentivize support of all ES Claimants for the  
22 Lehman Plan, including Non-Settling ES Claimants, the Lehman Lenders, solely in connection with  
23 and for confirmation and the effectiveness of the Lehman Plan, agree to the following in connection  
24 with entry of an ES Judgment subordinating the Lehman Secured Claims to the ES Claims, if any  
25 such judgment is entered:

26                       **(i)       Excess Values Otherwise Available to Pay the Lehman**  
27 **Creditors from Certain ES Plan Debtors' Projects Are to be Collateral for Equitable**  
28 **Subordination Claims that Benefit ES Claimants of Other ES Plan Debtors.** For some

particular ES Plan Debtors' Estates, the Net Cash Proceeds from the sale of their PRA Security Projects or other Assets likely would be insufficient to pay the Allowed ES Claims against those Estates and, for other particular ES Plan Debtors' Estates, such Net Cash Proceeds likely would exceed the Allowed ES Claims against their Estates. Instead of any such excess Net Cash Proceeds being available next to the Lehman Creditors, as Holders of Secured Claims or subordinated Secured Claims against those Estates, the Lehman Creditors, to their own detriment, have agreed, by virtue of permitting the PRA Security Pool to secure all ES Judgments, to voluntarily subordinate their remaining Secured Claims in any such excess values in the PRA Security Projects to any unpaid portion of an ES Judgment as to other ES Plan Debtors' Estates.

(ii) **To Obtain the ES Judgment in the First Instance for Del Rio and SJD Partners, No Showing Will be Required that the Subject Estates Had Enough Value In Them to Pay their ES Claims Without Regard to Any Lehman Secured Claim.** As to the Estates of Del Rio and SJD Partners only, the Lehman Creditors will waive an objection or defense, that, even were the applicable Lehman Secured Claim ignored, there was insufficient value in those Estates to pay their Allowed ES Claims, provided that (I) all other grounds necessary to obtain an ES Judgment have been satisfied, and (II) the applicable Estate executes the Del Rio / SJD Partners Release within forty-five (45) days following the Effective Date.

**7.10 Post-Confirmation Expenses, Intercompany Loans and Payables and Priorities in Payment.**

**7.10.1 Post Confirmation Expenses and Intercompany Loans.**

All Post-Confirmation Expenses may be paid by the Liquidating Trustee from the Post-Confirmation Account(s) upon ten (10) days' prior written notice and opportunity to object provided to the Lehman Lenders, the Committee(s), the Holders of Lehman Disputed Secured Claim(s), or with their consent, but without further notice to other Creditors or Holders of Interests, or approval of the Bankruptcy Court. Any disputes concerning the payment of Administrative and Post-Confirmation Expenses shall be submitted to the Bankruptcy Court for resolution. To the extent readily determinable, Post-Confirmation Expenses attributable to a particular Plan Debtor shall be paid from that Plan Debtor's Assets consistent with the provisions of the Lehman Plan. To

the extent of available Assets from each Plan Debtor, other Post-Confirmation Expenses shall be payable by each Plan Debtor Pro Rata consistent with the Lehman Plan, provided that after a Plan Debtor's available Cash or Assets are exhausted, the other Plan Debtors shall absorb such Plan Debtor's share of unpaid Post-Confirmation Expenses as provided in the Lehman Plan, which shall be Pro Rata to the extent reasonably possible. To the extent one Plan Debtor advances funds on behalf of another, the Liquidating Trustee shall book a receivable for the advancing Debtor and a payable for the borrowing Debtor.

**7.10.2 Payables and Priorities in Payment.**

Recoveries from the following sources as to which there are no unsubordinated Secured Claims shall be applied in the following manner:

**(a) Funds Constituting ES Litigation Proceeds.**

ES Litigation Proceeds of a particular Estate (unless they are or may also be a Project Related Action Recovery of a particular Estate with respect to a Cross-Collateralization Judgment) shall be applied in the following order of priority until exhausted,:

- (1) First, to payment of the ES Litigation Loan;
- (2) Second, to payment of, or, in the discretion of the Liquidating Trustee, reserve for its Pro Rata share of the unpaid Lehman Post-Confirmation Loans;
- (3) Third, to payment of, or, in the discretion of the Liquidating Trustee, reserve for the direct Post-Confirmation Expenses of such Estate and its Pro Rata share of unpaid Post-Confirmation Expenses commonly allocable among it and other Plan Debtors (not including any repayment of post-Confirmation Date intercompany payables);
- (4) Fourth, to repayment of any post-Confirmation Date intercompany payables;
- (5) Fifth, to such Estate's Holders of Allowed Non-Settled ES Claims entitled to the ES Litigation Proceeds pursuant to the terms of the ES Judgment until paid the full amount of their Allowed ES Claims;
- (6) Sixth, to the Estates of other Holders of Allowed ES Claims entitled to the ES Litigation Proceeds pursuant to the terms of the ES Judgment, payable Pro Rata

1 among such Estates based upon their entitled and Allowed ES Claims not paid from their Estate's  
2 own Assets, first to pay such Estate's share of the Lehman Post-Confirmation Loans and next to  
3 pay such Allowed ES Claims until paid in full; and

4 (7) Seventh, to the applicable Lehman Creditors.

5 (b) **Various Other Funds, Including Funds Constituting a Project**  
6 **Related Action Recovery With Respect to a Cross-Collateralization Judgment.**

7 (i) A Project Related Action Recovery of a particular Estate with respect to a Cross-  
8 Collateralization Judgment (unless it also may become ES Litigation Proceeds based upon a  
9 pending ES Action), (ii) any Net Cash Proceeds from the sale or disposition of Remaining Other  
10 Assets or otherwise, including Net Cash Litigation Recoveries and other funds in the Post-  
11 Confirmation Accounts, and (iii) any repayment of a post-Confirmation Date intercompany  
12 payable, shall be applied in the following order of priority until exhausted:

13 (1) First, to payment of, or, in the discretion of the Liquidating  
14 Trustee, reserve for its Pro Rata share of the Lehman Post-Confirmation Loan;

15 (2) Second, to payment of, or, in the discretion of the Liquidating  
16 Trustee, reserve for the direct Post-Confirmation Expenses of such Estate and its Pro Rata share of  
17 unpaid Post-Confirmation Expenses commonly allocable among it and other Plan Debtors (not  
18 including any repayment of post-Confirmation Date intercompany payables);

19 (3) Third, to repayment of any post-Confirmation Date  
20 intercompany payables,

21 (4) Fourth, to any of such Estate's due and payable Allowed  
22 Administrative Claims, Allowed Tax Claims, and Allowed Priority Claims;

23 (5) Fifth, to pay or, in the discretion of the Liquidating Trustee,  
24 reserve for unpaid Post-Confirmation Expenses of other Debtors and their share of the unpaid  
25 Lehman Post-Confirmation Loans (to be booked upon use as a receivable to the advancing Estate  
26 and as a payable by the borrowing Estate);

27 (6) Sixth, to pay, in the discretion of the Liquidating Trustee, an  
28 accelerated payment for Tax Claims; and



(7) Seventh, as Residual Cash to the Holders of Allowed Claims in Class 7 and Class 8 under the Plan.

(c) **Funds that Constitute Both ES Litigation Proceeds and a Project Related Action Recovery With Respect to a Cross-Collateralization Judgment.**

ES Litigation Proceeds of a particular Estate that also are a Project Related Action Recovery of such Estate with respect to a Cross-Collateralization Judgment, shall be applied in the following order of priority until exhausted:

- (1) First, to payment of the ES Litigation Loan;
- (2) Second, to payment of, or, in the discretion of the Liquidating Trustee, reserve for its Pro Rata share of the unpaid Lehman Post-Confirmation Loans;
- (3) Third, to payment of, or, in the discretion of the Liquidating Trustee, reserve for the direct Post-Confirmation Expenses of such Estate and its Pro Rata share of unpaid Post-Confirmation Expenses commonly allocable among it and other Plan Debtors (not including any repayment of post-Confirmation Date intercompany payables);
- (4) Fourth, to repayment of any post-Confirmation Date intercompany payables,
- (5) Fifth, to any of such Estate's due and payable Allowed Administrative Claims, Allowed Tax Claims, and Allowed Priority Claims;
- (6) Sixth, to pay or, in the discretion of the Liquidating Trustee, reserve for unpaid Post-Confirmation Expenses of other Debtors and their share of the unpaid Lehman Post-Confirmation Loans (to be booked upon use as a receivable to the advancing Estate and as a payable by the borrowing Estate);
- (7) Seventh, to such Estate's Holders of Allowed Non-Settled ES Claims entitled to the ES Litigation Proceeds pursuant to the terms of the ES Judgment until paid the full amount of their Allowed ES Claims;
- (8) Eighth, to the Estates of other Holders of Allowed ES Claims entitled to the ES Litigation Proceeds pursuant to the terms of the ES Judgment, payable Pro Rata

1 among such Estates based upon their entitled and Allowed ES Claims not paid from their Estate's  
2 own Assets, first to pay such Estate's share of the Lehman Post-Confirmation Loans and next to  
3 pay such Allowed ES Claims until paid in full; and

4 (9) Seventh, as Residual Cash to the Holders of Allowed Claims  
5 in Class 7 and Class 8 under the Plan; and

6 (d) **Funds that May Later be Determined to be Both ES Litigation**  
7 **Proceeds and Project Related Action Recovery With Respect to a Cross-Collateralization**  
8 **Judgment.**

9 Funds that presently are known to be either, but not both, ES Litigation Proceeds of a  
10 particular Estate or a Project Related Action Recovery with respect to a Cross-Collateralization  
11 Judgment, which potentially could also become the other upon final settlement or determination of  
12 the relevant, pending Project Related Action, shall be applied in the following order of priority until  
13 exhausted:

- 14 (1) First, reserved for payment of the ES Litigation Loan;
- 15 (2) Second, to payment of, or, in the discretion of the Liquidating  
16 Trustee, reserve for its Pro Rata share of the unpaid Lehman Post-Confirmation Loans;
- 17 (3) Third, to payment of, or, in the discretion of the Liquidating  
18 Trustee, reserve for the direct Post-Confirmation Expenses of such Estate and its Pro Rata share of  
19 unpaid Post-Confirmation Expenses commonly allocable among it and other Plan Debtors (not  
20 including any repayment of post-Confirmation Date intercompany payables);
- 21 (4) Fourth, to repayment of any post-Confirmation Date  
22 intercompany payables,
- 23 (5) Fifth, to be reserved and applied upon final settlement or  
24 determination of the relevant, pending Project Related Action in accordance with the above-  
25 described priorities of distribution.
- 26  
27  
28

1                               **7.10.3    Allocations and Distributions Under this Section.**

2               For purposes of this Section 7.8.5(b)(2) of the Plan, in calculating the amount of Allowed  
3 ES Claims not paid from an Estate's own Assets for a distribution of ES Litigation Proceeds  
4 pursuant hereto, the Liquidating Trustee may ignore future expected or possible recoveries, but  
5 upon such later recoveries occurring for such Estates, the Liquidating Trustee shall recalculate the  
6 prior distribution and adjust the amount of the later distribution to ensure that the aggregate  
7 distributions are correct among entitled Holders of Allowed ES Claims.

8                               **7.11    Plan Release.**

9               In exchange for the extension of credit represented by the additional Lehman Post-  
10 Confirmation Loans, the ES Settlement Offer and the delayed satisfaction of the Secured Claims of  
11 the Lehman Related Parties, as of the Effective Date, the Estate of each Plan Debtor, on behalf of  
12 itself and its Affiliates exclusive of other Debtors herein shall be deemed to unconditionally,  
13 irrevocably and generally release, acquit and forever discharge, waive and relinquish:

14                               (a)       any and all causes of action, actions, rights of action, suits,  
15 judgments, liens, indebtedness, damages, losses, claims, liabilities, obligations, attorneys' fees,  
16 costs, expenses and demands of every kind and character, whether known or unknown, suspected or  
17 unsuspected, disclosed or undisclosed, including without limitation any Litigation Claims, whether  
18 for damages, subordination or other remedies, and including any and any objections or defenses to  
19 Lehman Related Party's Claims, Liens, rights, or causes of action, from and against all Lehman  
20 Releasees, or any of them, and their subsidiaries and their respective officers, directors, employees,  
21 agents, predecessors, successors, assigns, representatives, attorneys and other professionals, or their  
22 property; except

23                               (b)       the following are not released, to the extent indicated:

24   (i) Avoidance Actions timely Filed and Filed no later than  
25 sixty (60) days following the Effective Date other than to the extent of Cross-Collateralization  
26 Claims; and

27   (ii) with respect to (1) all Equitable Subordination Claims in  
28 an ES Action (*i.e.*, either (A) that certain adversary proceeding Filed in the Cases and pending

1 before the Bankruptcy Court as Adversary Case No. 8:09-ap-01005 or (B) such other adversary  
2 proceeding in which Equitable Subordination Claims are asserted that is timely Filed and Filed no  
3 later than sixty (60) days following the Effective Date) and (2) those Cross-Collateralization Claims  
4 identified in the Debtors' Second Amended Disclosure Statement and asserted in a Cross-  
5 Collateralization Action (*i.e.*, an Avoidance Action against a Lehman Related Party that relates to a  
6 Cross-Collateralization Claim that is timely Filed and Filed no later than sixty (60) days following  
7 the Effective Date), each owner of each PRA Security Project shall have a non-recourse obligation  
8 to reconvey each PRA Security Project to the Liquidating Trustee if required by a Project Related  
9 Action Recovery, which obligation shall be secured by the PRA Recovery Security Pool and, at a  
10 Lehman Nominee's election, instead may be satisfied by a Cash payment in the amount of any  
11 Project Related Action Recovery.

12 The releases given above include an express, informed, knowing and voluntary waiver and  
13 relinquishment to the fullest extent permitted by law of rights under Section 1542 of the California  
14 Civil Code, which reads as follows, and under any similar or comparable laws anywhere in the  
15 world:

16 **A general release does not extend to claims which the creditor does not know or**  
17 **suspect to exist in his favor at the time of executing the release, which if known by him must**  
18 **have materially affected his settlement with the debtor.**

19 While the Confirmation Order, without more, shall effectuate the release, waiver and  
20 relinquishment described or referenced in this section for the Lehman Releasees in accordance  
21 herewith, the Lehman Releasees also shall be entitled to issuance of a separate written release,  
22 waiver and relinquishment by the Liquidating Trustee in a form acceptable to the Lehman Lenders  
23 and Liquidating Trustee or as reasonably proposed by the Lehman Lenders and approved by the  
24 Bankruptcy Court at or after the hearing on confirmation of the Lehman Plan.

25 **7.12 Entry of Final Decrees.**

26 The Liquidating Trustee shall cause the entry of a final decree in the Case of each Estate of  
27 a Plan Debtor at the earliest reasonable opportunity therefor. Such final decrees may be sought and  
28 entered individually for each Case.

**7.13 Dissolution of Committees and Discharge of Trustee and Liquidating Trustee.**

The Trustee, in his capacity as such, shall be discharged upon the Effective Date and his bond may be exonerated. The Liquidating Trustee and Committee shall be discharged upon consummation of the Plan and the entry of a final decree in each Case or as otherwise ordered by the Court.

**VIII.**

**DISTRIBUTIONS**

**8.1 Distribution Agent.**

The Liquidating Trustee shall serve as the Distribution Agent for distributions due under the Lehman Plan. The Distribution Agent may employ one or more sub agents on such terms and conditions as it may agree in its discretion and pay such subagent as a Post-Confirmation Expense from the Post-Confirmation Accounts. The Distribution Agent shall not be required to provide any bond in connection with the making of any Distributions pursuant to the Lehman Plan.

**8.2 Distributions.**

**(a) Dates of Distributions.**

Any distribution required to be made on the Effective Date shall be deemed timely if made as soon as practicable after such date and, in any event, within thirty (30) days after such date. Any distribution required to be made upon a Disputed Claim becoming an Allowed Claim and no longer being a Disputed Claim shall be deemed timely if made as soon as practicable thereafter.

**(b) Limitation on Liability.**

Neither the Lehman Related Parties, the Lehman Nominees, the Liquidating Trustee, their Affiliates, nor any of their employees, members, officers, directors, agents, attorneys or other professionals shall be liable for (i) any acts or omissions (except for gross negligence or willful misconduct) in connection with implementing the Distribution provisions of the Lehman Plan and the making or withholding of Distributions pursuant to the Lehman Plan, or (ii) any change in the value of Distributions made pursuant to the Lehman Plan resulting from any delays in making such Distributions in accordance with the Lehman Plan's terms (including but not limited to any delays caused by the resolution of Disputed Claims).

1           **8.3     Old Instruments and Securities.**

2                   **(a)     Surrender and Cancellation of Instruments and Securities.**

3           As a condition to receiving any distribution pursuant to the Lehman Plan in respect of a  
4     Claim, each Person holding any note or other instrument or security evidencing such Claim must  
5     surrender such instrument or security to the Distribution Agent, if requested.

6                   **(b)     Cancellation of Liens.**

7           Except as otherwise provided in the Lehman Plan, any Lien securing any Secured Claim  
8     shall be deemed released and discharged, and the Person holding such Secured Claim shall be  
9     authorized and directed to release any collateral or other property of the Liquidating Trustee  
10    (including, without limitation, any Cash Collateral) held by such Person and to take such actions as  
11    may be requested by the Liquidating Trustee to evidence the release of such Lien, including,  
12    without limitation, the execution, delivery and Filing or recording of such releases as may be  
13    requested by the Liquidating Trustee.

14           **8.4     De Minimis Distributions and Fractional Shares.**

15           No Cash payment of less than ten dollars (\$10) shall be made by the Liquidating Trustee to  
16    any Holder of Claims unless a request therefor is made in writing to the Liquidating Trustee.  
17    Whenever payment of a fraction of a cent would otherwise be called for, the actual payment shall  
18    reflect a rounding down of such fraction to the nearest whole cent. Any Cash or other property that  
19    is not distributed as a consequence of this section shall, after the last distribution on account of  
20    Allowed Claims in the applicable Class, be treated as “Unclaimed Property” under the Lehman  
21    Plan.

22           **8.5     Delivery of Distributions.**

23           Except as provided in the Lehman Plan with respect to Unclaimed Property, distributions to  
24    Holders of Allowed Claims and Allowed Administrative Claims shall be distributed by mail as  
25    follows: (1) with respect to each Holder of an Allowed Claim that has Filed a Proofs of Claim, at  
26    the address for such Holder as maintained by the official claims agent for the Plan Debtors; (2) with  
27    respect to each Holder of an Allowed Claim that has not Filed a Proofs of Claim, at the address  
28    reflected on the Schedules Filed by the Plan Debtors, provided, however, that if the Plan Debtors or

1 the Liquidating Trustee has received a written notice of a change of address for such Holder, the  
2 address set forth in such notice shall be used; or (3) with respect to each Holder of an Allowed  
3 Administrative Claim, at such address as the Holder may specify in writing.

#### 4 **8.6 Unclaimed Property.**

5 If either (1) the Distribution of Cash to the Holder of any Allowed Claim is returned to the  
6 Liquidating Trustee (*e.g.*, as undeliverable) and the check or other similar instrument or distribution  
7 remains unclaimed for one hundred twenty (120) days from sending or (2) the check or other  
8 similar instrument used for the Distribution to the Holder of any Allowed Claim remains uncashed  
9 for one hundred twenty (120) days from sending; or (3) the Liquidating Trustee does not have an  
10 address for a Holder of any Allowed Claim on the date such Distribution first could have been  
11 made under the Plan and for one hundred twenty (120) days thereafter, then such applicable  
12 Distribution shall be Unclaimed Property under the Plan and the Liquidating Trustee shall be  
13 relieved of making such Distribution or any further Distribution to such Holder of such Allowed  
14 Claim unless and until the Liquidating Trustee is notified in writing of the then current address of  
15 such Holder of an Allowed Claim. Subject to the remainder of this Section and the following  
16 section, Unclaimed Property shall remain in the possession of the Liquidating Trustee pursuant to  
17 this Section, and shall be set aside and (in the case of Cash) held in a segregated, interest bearing  
18 account to be maintained by the Distribution Agent until such time as the subject Distribution  
19 becomes deliverable. Nothing contained in the Lehman Plan shall require the Liquidating Trustee  
20 or any other Person to attempt to locate the Holder of an Allowed Claim as to which there is  
21 Unclaimed Property.

#### 22 **8.7 Disposition of Unclaimed Property.**

23 If the Person entitled thereto notifies the Liquidating Trustee of such Person's Claim to a  
24 Distribution of Unclaimed Property within ninety (90) days following such Person's initial  
25 Distribution Date, the Unclaimed Property distributable to such Person, together with any interest  
26 or dividends earned thereon, shall be paid or distributed to such Person as soon as practical. Any  
27 Holder of an Allowed Claim that does not assert a Claim in writing for Unclaimed Property held by  
28 the Liquidating Trustee within ninety (90) days after the Holders' initial Distribution Date shall no

1 longer have any Claim to or Interest in such Unclaimed Property, and shall be forever barred from  
2 receiving any Distributions under the Lehman Plan or otherwise from the Liquidating Trustee. In  
3 such cases, any property held for Distribution on account of such Claims shall become Available  
4 Cash and deposited into the Post-Confirmation Account of the Plan Debtor's Estate against which  
5 the applicable Allowed Claim was asserted.

6 **IX.**

7 **OBJECTIONS TO CLAIMS AND DISPUTED CLAIMS**

8 **9.1 Standing for Objections to Claims.**

9 The Liquidating Trustee and Lehman Lenders shall have the sole and exclusive right to File  
10 and resolve for the Estates objections to Claims and their status as ES Claims (provided, however,  
11 that the Lehman Lenders shall not be allowed to resolve for the Estates objections to Claims of any  
12 Lehman Related Party). Any objection to a Claim or its status as an ES Claim shall be Filed with  
13 the Bankruptcy Court and served on the Person holding such Claim on or before the applicable  
14 Claims Objection Deadline, except as provided in the Plan.

15 **9.2 Treatment of Disputed Claims.**

16 **(a) No Distribution Pending Allowance.**

17 If any portion of a Claim is a Disputed Claim, no payment or distribution provided for under  
18 the Lehman Plan shall be made on account of such Claim unless expressly provided hereunder or  
19 unless and until such Claim becomes an Allowed Claim. No distribution shall be made under the  
20 Plan on account of any Disputed Claims. A Claim that has not been Allowed by a Final Order of  
21 the Bankruptcy Court and as to which the objection deadline has not passed, including as to its  
22 status as an ES Claim, may be treated by the Liquidating Trustee as a Disputed Claim and, absent  
23 the agreement of the Lehman Lenders, the Liquidating Trustee shall so treat any such Secured  
24 Claim not expressly Allowed under the Plan and any ES Claim to which a payment otherwise  
25 would be due under subparagraph (c) of Sections 5.8 of the Plan.

26 **(b) Distribution After Allowance.**

27 On the next Distribution Date following the date on which a Disputed Claim becomes an  
28 Allowed Claim and is no longer a Disputed Claim, the Distribution Agent shall distribute to the



1 Person holding such Claim any Cash that would have been distributable to such Person if on the  
2 initial Distribution Date such Claim had been an Allowed Claim and not a Disputed Claim.

3 (c) **Reserves for Disputed Claims.**

4 In the event that Disputed Claims are pending, the Liquidating Trustee shall establish  
5 reasonable reserves, including the Plan Reserve for such Disputed Claims. The Distribution Agent  
6 may move the Bankruptcy Court for approval of its determination to reserve certain amounts.

7 **X.**

8 **EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

9 **10.1 Executory Contracts Being Assumed.**

10 As of the Effective Date, the Liquidating Trustee shall assume and, as of and conditioned  
11 upon the occurrence of the sale or conveyance of the related Remaining Real Estate Projects in  
12 accordance with the Lehman Plan Sale or Foreclosure Procedures, shall assign to the appropriate  
13 Lehman Nominee(s) or third party purchaser of each Remaining Real Estate Project, all of the  
14 executory contracts and unexpired leases on an **Exhibit "A"**, to be attached to the Lehman Plan on  
15 or before the Confirmation Date. With the consent of the Lehman Creditors, any required cure  
16 payments shall be made by the Liquidating Trustee from Cash Collateral of a Lehman Related  
17 Party on hand as of the Effective Date. The Lehman Lenders may add any executory contract or  
18 unexpired leases to these exhibits or delete any contract or lease therefrom up to and including the  
19 Confirmation Date. However, if **Exhibit "A"** first is Filed and served on affected contract or lease  
20 parties, or any amendments thereto are Filed and so served, later than twenty-four (24) days before  
21 the Confirmation Date, then, the affected contract or lease parties shall have at least fifteen (15)  
22 days from the date of service of the amendments to serve a written objection to the same on the  
23 Lehman Lenders. Upon the receipt of any such objection, the Lehman Lenders shall promptly set a  
24 hearing on the same, and the assumption or rejection of the affected contract or lease will be  
25 delayed until the Court makes a determination on this issue. To the extent that an executory  
26 contract or unexpired lease has previously been assumed by a Plan Debtor pursuant to an order of  
27 the Court, such assumption shall not be affected by the Lehman Plan. The assumption of any  
28 contracts or leases pursuant to the provisions of the Lehman Plan shall be only to the extent that

1 such assumed contracts or leases constitute executory contracts and unexpired leases within the  
2 meaning of Section 365 of the Bankruptcy Code. Inclusion of a matter in **Exhibit “A”** does not  
3 constitute an admission by the Plan Debtors or the Liquidating Trustee that (i) such matter is an  
4 executory contract or unexpired lease within the meaning of Section 365 of the Bankruptcy Code,  
5 (ii) the Plan Debtors, Trustee or Liquidating Trustee must assume such matter in order to continue  
6 to receive or retain rights, benefits, or performance thereunder or that any Claim under such matter  
7 must be paid or default cured if it is not an executory contract or unexpired lease, or (iii) such  
8 matter is a valid contract or lease. Any contract or lease assumed pursuant to the Lehman Plan shall  
9 be assumed as previously amended or otherwise modified by the parties thereto, whether before or  
10 after the Petition Date.

11 **10.2 Executory Contracts Being Rejected.**

12 As of the Effective Date, the Plan Debtors, Trustee or Liquidating Trustee, as appropriate,  
13 shall reject all of their executory contracts and unexpired leases other than those executory  
14 contracts or unexpired leases listed on **Exhibit “A”** to the Lehman Plan that are expressly assumed  
15 under the Lehman Plan.

16 **10.3 Retention of Property Rights by Lehman Nominees or Liquidating Trustee.**

17 To the extent that a matter that provides the Plan Debtors or their Estates with property  
18 rights does not constitute an executory contract or unexpired lease, or the Plan Debtors have  
19 obtained property rights under the executed portion of an executory contract or unexpired lease,  
20 rejection shall not constitute an abandonment by the Plan Debtors, the Lehman Nominees or the  
21 Liquidating Trustee of any such property rights.

22 **10.4 Bar Date for Rejection Damages.**

23 Any Claim arising out of the rejection of an executory contract or unexpired lease under the  
24 Plan shall be forever barred and shall not be enforceable against the Plan Debtors, their Estates, the  
25 Liquidating Trustee, their Affiliates, their successors, or their properties, and shall not be entitled to  
26 any distribution under the Lehman Plan, unless a Proof of Claim for such Claim is Filed and served  
27 on the Plan Debtors, or the Liquidating Trustee within thirty (30) days after the earlier of (a) the  
28 date of entry of the order of the Bankruptcy Court approving the rejection of the executory contract

1 or unexpired lease, or (b) the Confirmation Date.

2 **10.5 Cure Statements.**

3 Any party whose executory contract or unexpired lease is assumed under the terms of the  
4 Lehman Plan must File and serve on the Plan Debtors, the Trustee, the Liquidating Trustee and the  
5 Lehman Lenders a statement within thirty (30) days after the Confirmation Date itemizing all  
6 charges and other costs that the party contends must be paid in order to cure any defaults upon the  
7 assumption of the contract or lease (the "Cure Statement"). Failure to timely File a Cure Statement  
8 shall constitute a waiver of any cure claim and of any defaults occurring prior to the Confirmation  
9 Date. If the Plan Debtors, the Committee(s), the Liquidating Trustee or the Lehman Lenders do not  
10 File an objection to the Cure Statement within the later of thirty (30) days after the Effective Date  
11 and thirty (30) days after the receipt of the Cure Statement by all of the required notice parties, the  
12 Liquidating Trustee will pay the amount reflected on the Cure Statement. If there is a timely  
13 objection to the Cure Statement that cannot be resolved with the claimant, the Lehman Lenders  
14 may either 1) elect within forty-five (45) days after the Cure Statement is Filed to have the contract  
15 rejected, or 2) ask the Court to promptly set a hearing with respect to the objection. If such an  
16 objection is Filed, any cure amount payable upon the assumption of the executory contract or  
17 unexpired lease shall be due and payable on or before the fifteenth (15th) day after the entry of a  
18 Final Order fixing the cure amount and then only in the amount fixed by such order.

19 **10.6 Changes in Rates Subject to Regulatory Commission Approval.**

20 The Plan Debtors are not subject to governmental regulatory commission approval of their  
21 rates.

22 **XI.**

23 **EFFECT OF CONFIRMATION OF THE PLAN**

24 Except as otherwise expressly provided in the Lehman Plan, the documents executed  
25 pursuant to the Lehman Plan, or the Confirmation Order, on and after the Effective Date, all  
26 Persons and Entities who have held, currently hold, or may hold a debt, Claim, or Interest against  
27 the Plan Debtors (including but not limited to States and other governmental units, and any State  
28 official, employee, or other entity acting in an individual or official capacity on behalf of any State

or other governmental units) shall be permanently enjoined from: (a) taking any of the following actions on account of any such debt, Claim, or Interest: (1) commencing or continuing in any manner any action or other proceeding against the Plan Debtors and the Liquidating Trustee, their successors, or their property; (2) enforcing, attaching, executing, collecting, or recovering in any manner any judgment, award, decree, or order against the Plan Debtors or the Liquidating Trustee, their successors, or their property; (3) creating, perfecting, or enforcing any Lien or encumbrance against the Plan Debtors or the Liquidating Trustee, their successors, or their property; (4) asserting any set off, right of subrogation, or recoupment of any kind against any obligation due the Plan Debtors or the Liquidating Trustee, their successors, or their property; and (5) commencing or continuing any action, in any manner, in any place that does not comply with or is inconsistent with the provisions of the Lehman Plan; and (b) taking any of the following actions on account of any Claims or rights of action that are revested in, or transferred to, the Liquidating Trustee as of the Effective Date or under the Lehman Plan (to the extent one or more Plan Debtors' Estates first held such claim or rights of action or held the right to assert such claim or right of action after the Petition Date), including, without limitation: (1) asserting such Claims or rights of action against nondebtor third parties; and (2) commencing or continuing in any manner any action or other proceeding of any kind with respect to such claims or rights of action. Any person or entity injured by any willful violation of such injunction shall recover actual damages, including costs and attorneys' fees, and, in appropriate circumstances, may recover punitive damages from the willful violator.

## **XII.**

### **LIMITATION OF LIABILITY**

#### **12.1 No Liability for Solicitation or Participation.**

As specified in Section 1125(e) of the Bankruptcy Code, entities that solicit acceptances or rejections of the Lehman Plan and/or that participate in the offer, issuance, sale, or purchase of securities offered or sold under the Lehman Plan, in good faith and in compliance with the applicable provisions of the Bankruptcy Code, shall not be liable, on account of such solicitation or participation, for violation of any applicable law, rule, or regulation governing the solicitation of

1 acceptances or rejections of the Lehman Plan or the offer, issuance, sale, or purchase of securities.

2 **12.2 Limitation of Liability.**

3 Effective as of the Effective Date, none of the Liquidating Trustee, the Lehman Related  
4 Parties or their respective Affiliates, nor any of their respective members, officers, directors,  
5 employees and other agents, advisors, attorneys and accountants shall have or incur any liability to  
6 any Holder of any Claim or Interest or any other Person for any act or omission in connection with  
7 or arising out of the negotiation, preparation and pursuit of confirmation of the Lehman Plan, the  
8 Lehman Disclosure Statement, the consummation of the Lehman Plan, the administration of the  
9 Lehman Plan, the Cases or the property to be distributed under the Lehman Plan except: (a) the  
10 Liquidating Trustee shall be liable contractually for the performance of obligations assumed or  
11 imposed under or by the Lehman Plan; (b) for liability based on willful misconduct as finally  
12 determined by a Final Order of the Bankruptcy Court; and (c) for gross negligence in connection  
13 with implementing the Distribution provisions of the Lehman Plan and the making or withholding  
14 of Distributions pursuant to the Lehman Plan. Each of the Liquidating Trustee, Lehman Related  
15 Parties and their respective Affiliates, and each of their respective officers, directors, employees  
16 and other agents, advisors, attorneys and accountants) shall be entitled to rely, in every respect,  
17 upon the advice of counsel with respect to their duties and responsibilities under or with respect to  
18 the Lehman Plan.

19 **XIII.**

20 **CONDITIONS TO CONFIRMATION AND**

21 **EFFECTIVENESS OF THE PLAN**

22 **13.1 Conditions Precedent to Plan Confirmation.**

23 The following are conditions precedent to Confirmation of the Lehman Plan: (a)  
24 the Bankruptcy Court shall have entered the Confirmation Order; and (b) the Lehman Settlement  
25 Approval shall be represented by a Final Order.  
26  
27  
28

1           **13.2    Conditions Precedent to Plan Effectiveness.**

2           The following shall be conditions precedent to the effectiveness of the Lehman Plan and the  
3 occurrence of the Effective Date.

4                   (a)     The Confirmation Order shall be a Final Order in form and substance  
5 reasonably satisfactory to the Lehman Lenders.

6                   (b)     All agreements and instruments contemplated by, or to be entered into  
7 pursuant to, the Lehman Plan, including, without limitation, each of the Plan Documents necessary  
8 for consummation of the Lehman Plan, shall have been duly and validly executed and delivered by  
9 the parties thereto and all conditions to their effectiveness shall have been satisfied or waived other  
10 than the occurrence of the Effective Date.

11                                   **XIV.**

12                                   **RETENTION OF JURISDICTION**

13           Notwithstanding the entry of the Confirmation Order or the occurrence of the Effective  
14 Date, the Bankruptcy Court shall not be limited under the Plan and the Bankruptcy Court's  
15 jurisdiction shall apply to the fullest extent possible under applicable law.

16                                   **XV.**

17                                   **MODIFICATION OR WITHDRAWAL OF PLAN**

18           **15.1    Modification of Plan.**

19           At any time prior to confirmation of the Lehman Plan, the Lehman Lenders may  
20 supplement, amend or modify the Lehman Plan. After confirmation of the Lehman Plan, the  
21 Lehman Lenders or Liquidating Trustee with the consent of the Lehman Lenders may (x) apply to  
22 the Bankruptcy Court, pursuant to Section 1127 of the Bankruptcy Code, to modify the Lehman  
23 Plan; and (y) apply to the Bankruptcy Court to remedy defects or omissions in the Lehman Plan or  
24 to reconcile inconsistencies in the Lehman Plan.

25           **15.2    Nonconsensual Confirmation.**

26           In the event that any impaired Class of Claims or Interests shall fail to accept the Lehman  
27 Plan in accordance with Section 1129(a)(8) of the Bankruptcy Code, Lehman Lenders (i) may  
28 request that the Bankruptcy Court confirm the Lehman Plan in accordance with Section 1129(b) of

1 the Bankruptcy Code, and (ii) in accordance with the Lehman Plan, and may modify the Lehman  
2 Plan in accordance with Section 1127(a) of the Bankruptcy Code.

3 **XVI.**

4 **MISCELLANEOUS**

5 **16.1 Payment of Statutory Fees.**

6 All quarterly fees due and payable to the Office of the United States Trustee pursuant to  
7 Section 1930(a)(6) of Title 28 of the United States Code with respect to the Plan Debtors shall be  
8 paid in full on or before the Effective Date, or, to the extent such quarterly fees are disputed, an  
9 adequate reserve shall have been established and set aside for payment in full thereof, as required  
10 by Section 1129(a)(12) of the Bankruptcy Code. The Liquidating Trustee shall remain responsible  
11 for timely payment of quarterly fees due and payable after the Effective Date with respect to the  
12 Plan Debtors until each applicable Plan Debtor's Case is closed, to the extent required by Section  
13 1930(a)(6) of Title 28 of the United States Code.

14 **16.2 Payment Dates.**

15 Whenever any payment or distribution to be made under the Lehman Plan shall be due on a  
16 day other than a Business Day, such payment or distribution shall instead be made, without interest,  
17 on the immediately following Business Day.

18 **16.3 Headings.**

19 The headings used in the Lehman Disclosure Statement and in the Lehman Plan are inserted  
20 for convenience only and neither constitutes a portion of the Lehman Disclosure Statement or the  
21 Lehman Plan nor in any manner affect the construction of the provisions of the Lehman Disclosure  
22 Statement or the Lehman Plan.

23 **16.4 Other Documents and Actions.**

24 The Liquidating Trustee may execute such other documents and take such other actions as  
25 may be necessary or appropriate to effectuate the transactions contemplated under the Lehman  
26 Plan.

**16.5 Notices.**

All notices and requests in connection with the Lehman Disclosure Statement and the Lehman Plan shall be in writing and shall be hand delivered or sent by mail addressed to:

Edward Soto, Esq.  
Nellie P. Camerick, Esq.  
Weil, Gotshal & Manges LLP  
1395 Brickell Avenue  
Suite 1200  
Miami, FL 33131

and

Shai Y. Waisman, Esq.  
Weil, Gotshal & Manges LLP  
767 Fifth Avenue  
New York, NY 10153-0119

**With copies to:**

Dean A. Ziehl, Esq.  
Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 11<sup>th</sup> Fl.  
Los Angeles, CA 90067

All notices and requests to any Person holding of record any Claim or Interest shall be sent to them at their last known address or to the last known address of their attorney of record. Any such Person may designate in writing any other address for purposes of this Section, which designation will be effective on receipt.

**16.6 Governing Law.**

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules), the laws of the State of California (without reference to its conflict of law rules) shall govern the construction and implementation of the Lehman Plan and any agreements, documents, and instruments executed in connection with the Lehman Plan, unless otherwise specifically provided in such agreements, documents, or instruments.

**16.7 Binding Effect.**

This Plan and all rights, duties and obligations thereunder shall be binding upon and inure to the benefit of the Lehman Creditors, the Plan Debtors, the Liquidating Trustee, Holders of Claims, Holders of Interests, and their respective successors and assigns.



1           **16.8    Successors and Assigns.**

2           The rights, benefits, and obligations of any entity named or referred to in the Lehman Plan  
3 shall be binding on, and shall inure to the benefit of, the heirs, executors, administrators,  
4 successors, and assigns of such entity.

5           **16.9    Severability of Plan Provisions.**

6           If, prior to the Confirmation Date, any term or provision of the Lehman Plan is held by the  
7 Bankruptcy Court to be illegal, impermissible, invalid, void or unenforceable, or otherwise to  
8 constitute grounds for denying confirmation of the Lehman Plan, the Bankruptcy Court shall, with  
9 the consent of the Lehman Proponents, have the power to interpret, modify or delete such term or  
10 provision (or portions thereof) to make it valid or enforceable to the maximum extent practicable,  
11 consistent with the original purpose of the term or provision held to be invalid, void or  
12 unenforceable, and such term or provision shall then be operative as interpreted, modified or  
13 deleted. Notwithstanding any such interpretation, modification or deletion, the remainder of the  
14 terms and provisions of the Lehman Plan shall in no way be affected, impaired or invalidated by  
15 such interpretation, modification or deletion.

16           **16.10   No Waiver.**

17           The failure of the Plan Debtors, Liquidating Trustee, Committee or Lehman Lenders or any  
18 other Person to object to any Claim for purposes of voting shall not be deemed a waiver of the  
19 Committee(s)', the Plan Debtors', the Liquidating Trustee's or the Lehman Lenders' right to object  
20 to or examine such Claim, in whole or in part.

21           **16.11   Inconsistencies.**

22           In the event the terms or provisions of the Lehman Disclosure Statement are inconsistent  
23 with the terms and provisions of the Lehman Plan or documents executed in connection with the  
24 Lehman Plan, the terms of the Lehman Plan shall control.

25           **16.12   Exemption from Certain Transfer Taxes and Recording Fees.**

26           Pursuant to Section 1146(c) of the Bankruptcy Code, any transfers from a Plan Debtor or its  
27 Estate to the Liquidating Trustee or to any other Person or entity pursuant to the Lehman Plan, or  
28 any agreement regarding the transfer of title to or ownership of any of the Plan Debtors' real or

1 personal property or of any other interest in such property (including, without limitation, a security  
2 interest), including, without limitation, transfers or sales pursuant to the Lehman Plan Sale or  
3 Foreclosure Procedures or Reconveyance Agreements will not be subject to any document  
4 recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real  
5 estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, or  
6 other similar tax or governmental assessment, and the Confirmation Order will direct the  
7 appropriate state or local governmental officials or agents to forego the collection of any such tax  
8 or governmental assessment and to accept for filing and recordation any of the foregoing  
9 instruments or other documents without the payment of any such tax or governmental assessment.

10 **16.13 Post-Confirmation Status Report.**

11 By the earlier of 180 days following the entry of the Confirmation Order a status report  
12 shall be Filed with the Court explaining what progress has been made toward consummation of the  
13 confirmed Plan, which report shall be Filed by the Liquidating Trustee, if the Effective Date occurs  
14 with 120 days following the entry of the Confirmation Order and, otherwise, by the Lehman  
15 Lenders. The status report shall be served on the United States Trustee, the list of twenty largest  
16 unsecured creditors Filed by the Debtors or Trustee for the jointly administered Cases of the  
17 Debtors, the Lehman Creditors, the Liquidating Trustee and those parties who have requested  
18 special notice. Unless otherwise ordered, further status reports shall be Filed every 180 days and  
19 served on the same entities.

20 **16.14 Post-Confirmation Conversion/Dismissal.**

21 A creditor or party in interest may bring a motion to convert or dismiss any Case of a Plan  
22 Debtor under § 1112(b), after the Lehman Plan is confirmed, if there is a default in performing the  
23 Lehman Plan, subject to the right of any party in interest to object to such motion. If the Court  
24 orders any of the Cases converted to Chapter 7 after the Lehman Plan is confirmed, then all  
25 property that had been property of the chapter 11 Estate, and that has not been disbursed pursuant  
26 to the Lehman Plan, will revest in the Chapter 7 estate. The automatic stay will be reimposed upon  
27 the revested property, but only to the extent that relief from stay was not previously authorized by  
28 the Court during this case.

**16.15 Final Decree.**

Once a Plan Debtor's Estate has been fully administered, as referred to in Bankruptcy Rule 3022, the Liquidating Trustee, or other party as the Court shall designate in the Confirmation Order, shall File a motion with the Court to obtain a final decree to close the Case of such Plan Debtor.

Dated: September 9, 2009

PACHULSKI STANG ZIEHL & JONES LLP

By /s/ Robert B. Orgel

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Holdings LLC and OVC Holdings LLC

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**Exhibit “A”**

**List of Assumed Executory Contracts and Assumed Unexpired Leases**

**[TO BE FILED]**

**Exhibit B**

See Attached Disclosure Statement

Richard N. Pachulski (CA Bar No. 90073)  
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Attorneys for Lehman Commercial Paper Inc., Lehman ALI,  
Inc., Northlake Holdings LLC and OVC Holdings LLC

**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SANTA ANA DIVISION**

In re:

Palmdale Hills Property, LLC, and its Related  
Debtors,  
  
Jointly Administered Debtors  
and Debtors-In-Possession

Affects:

- ☐ All Debtors
- ☒ Palmdale Hills Property, LLC
- ☒ SunCal Beaumont Heights, LLC
- ☒ SCC/Palmdale, LLC
- ☒ SunCal Johansson Ranch, LLC
- ☒ SunCal Summit Valley, LLC
- ☒ SunCal Emerald Meadows, LLC
- ☒ SunCal Bickford Ranch, LLC
- ☒ Acton Estates, LLC
- ☒ Seven Brothers, LLC
- ☒ SJD Partners, Ltd.
- ☐ SJD Development Corp.
- ☒ Kirby Estates, LLC
- ☒ SunCal Communities I, LLC
- ☒ SCC Communities LLC
- ☐ SunCal Communities III, LLC
- ☒ North Orange Del Rio Land, LLC
- ☒ Tesoro SF, LLC
- ☒ LB/L-SunCal Oak Valley, LLC
- ☒ SunCal Heartland, LLC
- ☒ LB/L-SunCal Northlake, LLC

Case No.: 8:08-bk-17206-ES  
Chapter 11

Jointly Administered Case Nos.  
8:08-bk-17209-ES; 8:08-bk-17240-ES;  
8:08-bk-17224-ES; 8:08-bk-17242-ES;  
8:08-bk-17225-ES; 8:08-bk-17245-ES;  
8:08-bk-17227-ES; 8:08-bk-17246-ES;  
8:08-bk-17230-ES; 8:08-bk-17231-ES;  
8:08-bk-17236-ES; 8:08-bk-17248-ES;  
8:08-bk-17249-ES; 8:08-bk-17573-ES;  
8:08-bk-17574-ES; 8:08-bk-17575-ES  
8:08-bk-17404-ES; 8:08-bk-17407-ES;  
8:08-bk-17408-ES; 8:08-bk-17409-ES;  
8:08-bk-17458-ES; 8:08-bk-17465-ES;  
8:08-bk-17470-ES; 8:08-bk-17472-ES;  
and 8:08-bk-17588-ES

**DISCLOSURE STATEMENT WITH  
RESPECT TO JOINT CHAPTER 11  
PLAN PROPOSED BY LEHMAN  
LENDERS**

**Hearing:**

Date: October 15, 2009  
Time: 2:00 p.m.  
Place: Courtroom 5A  
411 West Fourth Street  
Santa Ana, CA 92701

- ☒ SunCal Marblehead, LLC
- ☒ SunCal Century City, LLC
- ☒ SunCal PSV, LLC
- ☒ Delta Coves Venture, LLC
- ☒ SunCal Torrance Properties, LLC
- ☒ SunCal Oak Knoll, LLC

**[THIS IS NOT A SOLICITATION OF ACCEPTANCE OR REJECTION OF  
THE LEHMAN PLAN. ACCEPTANCES OR REJECTIONS MAY NOT BE SOLICITED  
UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY  
COURT. THIS DISCLOSURE STATEMENT IS BEING SUBMITTED FOR APPROVAL  
BUT HAS NOT BEEN APPROVED BY THE COURT]**

## TABLE OF CONTENTS

		<u>Page</u>
I.	INTRODUCTION .....	1
1.1	Summary of this Disclosure Statement .....	1
1.2	Purpose of this Document .....	4
1.3	Court Approval of this Document.....	5
1.4	Competing Plans. ....	6
1.5	Summary of the Lehman Plan.....	6
1.6	Recommendations.....	14
II.	PLAN CONFIRMATION DEADLINES.....	14
2.1	Time and Place of the Confirmation Hearing .....	14
2.2	Deadline for Voting for or Against the Lehman Plan.....	14
2.3	Deadline for Objecting to the Confirmation of the Lehman Plan.....	14
2.4	Identity of Person to Contact for More Information Regarding the Lehman Plan. ....	15
2.5	Disclaimer.....	15
III.	BACKGROUND OF THE DEBTORS.....	16
3.1	The SunCal Companies and the Debtors. ....	16
3.2	The Debtors' Primary Assets.....	17
3.3	Debt and Capital Structure.....	21
3.4	Asset Values.....	25
3.5	A Summary of the Lehman Creditors' Loans.....	27
3.6	Filing of Proofs of Claim with Respect to the Lehman Loans. ....	28
IV.	DEBTORS' ALLEGED CLAIMS AGAINST THE LEHMAN LENDERS.....	30
4.1	Introduction.....	30
4.2	The Debtors' Disputes Relating to the Allowed Secured Claims of Fenway Capital Pursuant to Bankruptcy Code Section 506. ....	30
4.3	The Elieff Plan Proponents Assertions regarding Fraudulent Transfer Actions .. Against the Lehman Lenders Arising under Various Cross-Collateralized Lehman Loans.....	31
4.4	Alleged Preference Claims Against the Lehman Lenders.....	33
4.5	The Equitable Subordination Claims Relating to the Lehman Lenders' Claims.....	35
4.6	Alleged Fraud, Breach of Fiduciary Duty and Other Potential Litigation Claims .... Against the Lehman Lenders.....	36
V.	THE ELIEFF PLAN IS UNCONFIRMABLE.....	37
5.1	The Elieff Plan is Premised Upon an Improper Partial Substantive Consolidation. ....	37
5.2	Feasibility of Elieff Plan .....	38
5.3	Success of Equitable Subordination Litigation.....	39
5.4	The D.E. Shaw Sale is for Less than Fair Value, is Unfairly Discriminatory in Favor ..... of Bond Claimants and Elieff and Cannot be Approved by the Court.....	39
5.5	Unjustified Releases.....	40
5.6	Implications of the Lehman Commercial Bankruptcy.....	40
VI.	SIGNIFICANT EVENTS IN THE DEBTORS' CHAPTER 11 CASES .....	40
6.1	Voluntary Debtors.....	40
6.2	Trustee Debtors.....	41
6.3	The Debtors' Motion for Relief from Stay in the Lehman Commercial Chapter 11 Proceedings.....	41
6.4	Certain of the Voluntary Debtors' Motion for Surcharge and Use of Cash Collateral.....	42
6.5	Lehman Commercial's Motions for Relief from the Automatic Stay Against Certain ..... of the Voluntary Debtors' Projects. ....	42
6.6	The Debtors' Filing of the ES Action Against the Lehman Lenders.....	43
6.7	Certain Debtors' Filing of the Sales Procedures Motion.....	43
6.8	The Lehman Administrative Loans. ....	45
6.9	The Contractors' Successful Motions for Relief from Stay to Pursue the Bond ..... Claims.	47
6.10	The Debtors' Motion Pursuant to Bankruptcy Code Section 506(d).....	47



1	6.11	The Debtors' Motions to Strike the Claims and Pleadings Arising from the Repurchase Lehman Loans .....	48
2	6.12	The Debtors' Denied Preliminary Injunction Motion Against the Holders of Bond Claims. ....	48
3	6.13	The Non-Lehman Related Primary Secured Lenders' Motions for Relief from Stay. ....	49
4	6.14	The Rubidoux 60 Litigation. ....	49
	6.15	Church Litigation. ....	51
5	6.16	Mechanic's Lien Claims. ....	51
	6.17	The Debtors' Potential Preferential Transfers. ....	51
6	VII.	LEHMAN CREDITORS' PLAN .....	53
	7.1	Treatment of Unclassified Claims. ....	53
7	7.2	Treatment of Allowed Administrative Claims. ....	54
	7.3	Treatment of Priority Unsecured Tax Claims. ....	56
8	7.4	Treatment of Unavoided Liens Securing Claims That Are Not Allowed. ....	56
	7.5	Classification Of Claims And Interests. ....	57
9	7.6	Treatment Of Classified Claims And Interests .....	73
	VIII.	ACCEPTANCE OR REJECTION OF THE LEHMAN PLAN .....	83
10	8.1	Introduction. ....	83
	8.2	Who May Object to Confirmation of the Lehman Plan. ....	84
11	8.3	Who May Vote to Accept/Reject the Lehman Plan and Special Provisions for Listed Holders of Mechanic's Lien Claims. ....	84
12	8.4	What Is an Allowed Claim/Interest. ....	84
	8.5	What Is an Impaired Class. ....	85
13	8.6	Who Is Not Entitled to Vote. ....	85
	8.7	Who Can Vote in More than One Class. ....	85
14	8.8	Votes Necessary for a Class to Accept the Lehman Plan. ....	86
	8.9	Treatment of Nonaccepting Classes. ....	86
15	8.10	Request for Confirmation Despite Nonacceptance by Impaired Class(es). ....	86
	IX.	MEANS OF EXECUTION AND IMPLEMENTATION OF THE LEHMAN PLAN .....	86
16	9.1	Introduction. ....	86
	9.2	The Liquidating Trustee. ....	88
17	9.3	Vesting of Assets in Plan Debtors' Estates Managed by Liquidating Trustee. ....	88
	9.4	The Committee(s). ....	88
18	9.5	Lehman Post-Confirmation Loans. ....	89
	9.6	Plan Reserve and Post-Petition Accounts. ....	92
19	9.7	Disposition of Assets .....	93
	9.8	Equitable Subordination Claims .....	108
20	9.9	Post-Petition Expenses, Intercompany Loans and Payables and Priorities in Payment. ....	114
21	9.10	Plan Release. ....	118
	9.11	Entry of Final Decrees. ....	120
22	9.12	Dissolution of Committees and Discharge of Trustee and Liquidating Trustee. ....	120
	X.	DISTRIBUTIONS .....	120
23	10.1	Distribution Agent. ....	120
	10.2	Distributions. ....	121
24	10.3	Old Instruments and Securities. ....	121
	10.4	De Minimis Distributions and Fractional Shares. ....	122
25	10.5	Delivery of Distributions. ....	122
	10.6	Unclaimed Property. ....	122
26	10.7	Disposition of Unclaimed Property. ....	123
	XI.	OBJECTIONS TO CLAIMS AND DISPUTED CLAIMS .....	123
27	11.1	Standing for Objections to Claims. ....	123
	11.2	Treatment of Disputed Claims. ....	124
28	XII.	EXECUTORY CONTRACTS AND UNEXPIRED LEASES .....	124
	12.1	Executory Contracts Being Assumed. ....	124
	12.2	Executory Contracts Being Rejected. ....	125

1	12.3	Retention of Property Rights by Lehman Nominees or Liquidating Trustee.....	126
	12.4	Bar Date for Rejection Damages. ....	126
2	12.5	Cure Statements. ....	126
	12.6	Changes in Rates Subject to Regulatory Commission Approval.....	127
3	XIII.	BEST INTEREST OF CREDITORS TEST.....	127
	XIV.	PLAN FEASIBILITY .....	129
4	XV.	EFFECT OF CONFIRMATION OF THE LEHMAN PLAN .....	129
	XVI.	LIMITATION OF LIABILITY.....	130
5	16.1	No Liability for Solicitation or Participation. ....	130
	16.2	Limitation of Liability.....	130
6	XVII.	CONDITIONS TO CONFIRMATION AND EFFECTIVENESS OF THE LEHMAN PLAN.....	131
7	17.1	Conditions Precedent to Plan Confirmation. ....	131
	17.2	Conditions Precedent to Plan Effectiveness. ....	131
8	XVIII.	RETENTION OF JURISDICTION .....	132
	XIX.	MODIFICATION OF PLAN .....	132
9	19.1	Modification of Plan. ....	132
	19.2	Nonconsensual Confirmation.....	132
10	XX.	MISCELLANEOUS.....	132
	20.1	Payment of Statutory Fees. ....	132
11	20.2	Payment Dates. ....	133
	20.3	Headings. ....	133
12	20.4	Other Documents and Actions.....	133
	20.5	Notices. ....	133
13	20.6	Governing Law. ....	134
	20.7	Binding Effect.....	134
14	20.8	Successors and Assigns.....	134
	20.9	Severability of Plan Provisions.....	134
15	20.10	No Waiver.....	135
	20.11	Inconsistencies. ....	135
16	20.12	Exemption from Certain Transfer Taxes and Recording Fees.....	135
	20.13	Post-Confirmation Status Report. ....	136
17	20.14	Post-Confirmation Conversion/Dismissal. ....	136
	20.15	Final Decree. ....	136
18	XXI.	CERTAIN UNITED STATES FEDERAL INCOME TAX CONSEQUENCES OF THE LEHMAN PLAN.....	136
19	21.1	Consequences to Holders of Lehman Secured Claims and Danske Bank Secured Claims .....	138
20	21.2	Consequences to Holders of General Unsecured Claims. ....	139
	21.3	Distributions in Discharge of Accrued but Unpaid Interest.....	140
21	21.4	Character of Gain or Loss .....	141
	21.5	Information Reporting and Withholding .....	141
22	XXII.	CONCLUSION .....	142
23		APPENDIX “A” .....	144
24		DEFINITIONS AND RULES OF INTERPRETATION .....	144
25			
26			
27			
28			

1 THE DOCUMENT YOU ARE READING IS THE DISCLOSURE STATEMENT  
2 FOR THE LEHMAN PLAN.

3 Creditors Lehman Commercial Paper Inc., Lehman ALI, Inc., Northlake Holdings  
4 LLC, and OVC Holdings LLC (the “Lehman Lenders”)<sup>1</sup> have proposed a plan (the “Lehman Plan”) for  
5 under chapter 11 of title 11 of the United States Code, as amended (the “Bankruptcy Code”) for  
6 twenty-four (24) of the Debtors (referred to herein as the “Plan Debtors”), and submit this disclosure  
7 statement in support of the Lehman Plan (the “Disclosure Statement” or “Lehman Disclosure  
8 Statement”).

9 I.

10 **INTRODUCTION**

11 **1.1 Summary of this Disclosure Statement.**<sup>2</sup>

12 The Lehman Plan is being proposed by the Lehman Lenders. The Lehman Lenders  
13 are owed approximately \$2 billion of debt that is secured by Liens on Assets of the Debtors. The  
14 Lehman Plan is designed to enable a reasonable resolution of the financial distress of the Plan  
15 Debtors. It is offered as a counterpoint to another plan, the Elieff Plan (defined below), and to the  
16 course of action for the Debtors proposed by the Elieff Plan’s sponsor, an indirect parent of each  
17 Debtor, SCC Acquisitions, Inc. (“Acquisitions”), for which Bruce Elieff (“Elieff”) is its sole owner  
18 and manager.

19 The Debtors are hopelessly insolvent. The Debtors collectively own 18 Remaining  
20 Real Estate Projects and certain related Cash with an estimated collective value of \$350 million to  
21 \$600 million (the Debtors’ valuations represent the lower sums). The Debtors collectively owe  
22 debts of approximately \$2.4 billion to various creditors holding Claims not secured by collateral and  
23 to the Lehman Creditors. Importantly, however, of this debt, Elieff and his wife personally  
24 guaranteed payment of approximately \$230 million in Bond Obligations potentially owed to Bond  
25

26  
27 <sup>1</sup> All capitalized terms not otherwise defined herein shall have the same meaning as set forth in Exhibit “A” of this  
Disclosure Statement (entitled “Definitions and Rules of Interpretation”).

28 <sup>2</sup> While good faith effort has been made to make the Plan and Disclosure Statement consistent in all respects, if there are  
any discrepancies between the Plan and the Disclosure Statement, the Plan controls and if there are any discrepancies  
between the summaries provided in sections 1.1 and 1.5 of the Disclosure Statement and the other provisions of this  
Disclosure Statement, the other provisions shall control.

1 Safeguard and Arch.

2 Elieff and Acquisitions appear to claim that the centerpiece of the Elieff Plan and  
3 their proposed course for the Debtors is the pursuit of various Litigation Claims, consisting primarily  
4 of certain Equitable Subordination Claims against Lehman Related Parties. The Equitable  
5 Subordination Claims essentially are premised on a contention that certain Lehman Related Parties  
6 acted so egregiously that their approximately \$2 billion in Claims and Liens against the Debtors and  
7 their respective Assets should be subordinated to the Claims of all Creditors harmed by such alleged  
8 misconduct.

9 The Lehman Creditors dispute these Litigation Claims against the Lehman Related  
10 Parties and believe them to be just a smokescreen. The Elieff Plan and the proposed course of action  
11 of Acquisitions and Elieff are designed primarily to provide Elieff the personal benefit of reducing  
12 or eliminating his personal liability with respect to the Bond Obligations. The Elieff Plan is centered  
13 upon a sale (that Acquisitions and Elieff have arranged and proposed) of certain Remaining Real  
14 Estate Projects to D.E. Shaw or another bidder at an under-market price, but on terms that require all  
15 of the likely liability for the Elieff guaranteed Bond Obligations to be assumed and satisfied by the  
16 buyer, whether or not any other Holder of an unsecured, non-priority Claim gets paid anything at all.

17 Pursuit of the Equitable Subordination Claims represents a 'lottery ticket' litigation  
18 strategy. Besides having to prove inequitable conduct by the Lehman Related Parties, the benefits of  
19 any such litigation would be somewhat limited unless the Estates of the various Debtors could be  
20 merged (*e.g.*, substantively consolidated) so that values payable to the Lehman Creditors in their  
21 capacity as Creditors of one particular Debtor could be used instead to pay Creditors of another  
22 Debtor. To succeed, the Elieff Plan requires that the Debtors' Estates be substantively consolidated,  
23 requiring the Debtors to meet high evidentiary hurdles. None of the factors required for substantive  
24 consolidation (either the hopeless intermingling of the assets and liabilities of the Debtors or the  
25 treatment of the Debtors by the Creditors as a consolidated, single enterprise) are satisfied in this  
26 instance. The Lehman Creditors believe that there is no basis for such substantive consolidation and  
27 that the Lehman Related Parties not only will prevail in defending the Equitable Subordination  
28 Claims, but would also defeat any effort to substantively consolidate these Estates.

1 More importantly, even if the Debtors are able to overcome the legal obstacles they  
2 face in confirming the Elieff Plan, the litigation attendant to the two cornerstones of the Elieff Plan  
3 could take years to resolve – thus depriving the Debtors’ Creditors from access to any payment on  
4 account of their Allowed Claims until resolution of such litigation, all the while forcing the Creditors  
5 to bear the risk of the inevitable protracted litigation.

6 Whereas Elieff and Acquisitions are out-of-the-money parties focused on providing  
7 Elieff substantial personal benefits through a flawed sale process and offering other Creditors only a  
8 speculative ‘lottery ticket’ litigation strategy, which could take years to resolve. The Lehman  
9 Creditors, on the other hand, are in-the-money Creditors holding substantial Claims secured by Liens  
10 on the Assets of the Debtors, offering Creditors a more appropriate auction process for the  
11 Remaining Real Estate Projects, the choice of a \$15 million settlement offer or to continue the  
12 ‘lottery ticket’ litigation and a better funded plan. The Lehman Plan’s primary purpose is to bring  
13 the focus back to the disposition process for the Remaining Real Estate Projects. The Lehman Plan  
14 provides, in part, for the following:

15 (1) A Liquidating Trustee would be selected by the Committees to implement the  
16 Lehman Plan and hold and distribute funds for the Estates;

17 (2) Plan funding would be assured through use of certain of the over \$25 million  
18 of Cash Collateral of the Lehman Creditors and a commitment to fund an additional \$5 million to  
19 allow for consummation and implementation of the Lehman Plan;

20 (3) In addition to the funding described in clause (2) above, \$15 million would be  
21 funded by the Lehman Lenders to enable settlement of the Equitable Subordination Claims (the “ES  
22 Settlement” as defined below) for accepting Classes or for the individual indirect beneficiaries of the  
23 Equitable Subordination Claims (“ES Claimants” as defined below). As more fully discussed in  
24 Section 1.5, below, the Lehman Lenders estimate that the Holder of an Allowed ES Claim would  
25 receive at least approximately 6.6% recovery on account of its Allowed ES Claim if it either accepts  
26 or is deemed to accept the ES Settlement Offer;

27 (4) For Non-Settling ES Claimants, if any:

28 (i) A loan in the amount of \$1 million would be made available by a

1 Lehman Lender to fund expenses for the Equitable Subordination Claims in the ES Action or  
2 through the use of Cash Collateral of the Lehman Creditors (as more fully set forth below); and  
3 (ii) To secure the satisfaction of a Project Related Action Recovery,  
4 recovery sources would be provided, consisting of (1) the Plan Reserve, to contain, *inter alia*, certain  
5 Cash Collateral and the Net Cash Proceeds from any sales of relevant Remaining Real Estate  
6 Projects to third party purchasers, and/or (2) continuing liens (as defined and described below, the  
7 “PRA Recovery Deeds of Trust”) on any Remaining Real Estate Project transferred to a Lehman  
8 Nominee(s) securing an amount, in the aggregate, equal to the Maximum DOT Security Amount;  
9 and

10 (5) Maximum value would be achieved for the Debtors’ Remaining Real Estate  
11 Projects through one or more auctions conducted by the Liquidating Trustee. The Lehman Creditors  
12 are committing to make “Initial Bids” for certain of the Remaining Real Estate Projects against  
13 which they have direct Liens and may commit to make certain additional bids (referred to in the  
14 Lehman Plan as “Contingent Bids”) with respect to certain of the Remaining Real Estate Projects as  
15 to which the Lehman Lenders either have: (a) a Lien in the equity ownership of the Remaining Real  
16 Estate Project rather than the Remaining Real Estate Project itself; or (b) a direct Lien in the Project  
17 which is subject to a Cross-Collateralization Claim. The Initial Bids are all in amounts equal to the  
18 Lehman Lenders’ appraised values for the underlying real estate (see Section 3.4, below) and as to  
19 the Contingent Bids, if made, would be equal to the Debtors’ estimated value of the underlying real  
20 estate (also set forth in Section 3.4, below).

21 **1.2 Purpose of this Document.**

22 The Lehman Disclosure Statement is submitted in accordance with 11 U.S.C. § 1125  
23 and contains information regarding the Lehman Plan, a copy of which accompanies this Disclosure  
24 Statement. The Disclosure Statement is being distributed to you for the purpose of enabling you to  
25 make an informed judgment about the Lehman Plan. The Lehman Disclosure Statement describes  
26 the Lehman Plan and contains information concerning, among other matters: (1) the history,  
27 business, results of operations, assets and liabilities of the Debtors, (2) the business plan (*e.g.*, to  
28 liquidate) that is to be implemented following confirmation of the Lehman Plan, (3) risk factors to be

considered in voting on the Lehman Plan, and (4) certain tax considerations of the Lehman Plan.

The Lehman Disclosure Statement also contains a discussion of the proposed Elieff Plan, for which solicitation might be permitted by the Bankruptcy Court simultaneously with the Lehman Plan. If so, the discussion herein of the Elieff Plan would supplement, but not replace, a discussion thereof in the Elieff Disclosure Statement.

The Lehman Creditors strongly urge you to review carefully the contents of this Lehman Disclosure Statement and the Lehman Plan (including the exhibits to each) before making a decision to accept or reject the Lehman Plan. Particular attention should be paid to the provisions affecting or impairing your rights as a Holder of a Claim or Interest.

This Disclosure Statement cannot tell you everything about your rights. You should consider consulting your own lawyer to obtain more specific advice on how the Lehman Plan will affect you and your best course of action.

**READ THIS DISCLOSURE STATEMENT CAREFULLY IF YOU WANT TO KNOW ABOUT:**

- **WHO CAN VOTE OR OBJECT TO THE LEHMAN PLAN;**
- **HOW YOUR CLAIM OR INTEREST IS TREATED;**
- **HOW THIS TREATMENT COMPARES TO WHAT YOU WOULD RECEIVE ON ACCOUNT OF YOUR CLAIM OR INTEREST IN LIQUIDATION;**
- **A BRIEF HISTORY OF THE DEBTORS AND SIGNIFICANT EVENTS DURING THEIR CHAPTER 11 BANKRUPTCY PROCEEDINGS;**
- **WHAT FACTORS THE BANKRUPTCY COURT WILL CONSIDER TO DECIDE WHETHER OR NOT TO CONFIRM THE LEHMAN PLAN;**
- **WHAT IS THE EFFECT OF CONFIRMATION; AND**
- **WHETHER THE LEHMAN PLAN IS FEASIBLE.**

**1.3 Court Approval of this Document.**

The Bankruptcy Court approved the Lehman Disclosure Statement as containing sufficient information to enable a hypothetical reasonable investor, typical of Holders of Claims or Interests receiving the Lehman Disclosure Statement, to make an informed judgment about the Lehman Plan. This approval enabled the Lehman Creditors to send you this Disclosure Statement

1 and solicit your acceptance of the Lehman Plan. The Bankruptcy Court has not, however, ruled on  
2 the Lehman Plan itself, nor conducted a detailed investigation into the contents of this Disclosure  
3 Statement.

#### 4 **1.4 Competing Plans.**

5 At the same time that the Lehman Creditors are seeking to have the Bankruptcy Court  
6 confirm the Lehman Plan, it appears that Acquisitions and Elieff are seeking to have the Bankruptcy  
7 Court instead confirm the Elieff Plan. As noted above, the Lehman Creditors contend that the Elieff  
8 Plan is unconfirmable (*see* Article V, below). Assuming, however, that both the Elieff Plan and the  
9 Lehman Plan are confirmable, you may vote to accept or reject: the Lehman Plan; the Elieff Plan;  
10 both plans; or neither of them, irrespective of how you vote (if at all) on the other plan. The  
11 Bankruptcy Court may confirm only one plan for each Debtor (although it could conceivably  
12 confirm one plan as to some of the Debtors and another plan as to some of the other Debtors). The  
13 Bankruptcy Court will have discretion in determining which plan of reorganization to confirm but “.  
14 . . shall consider the preferences of creditors and equity security holders in determining which plan  
15 to confirm.”

#### 16 **1.5 Summary of the Lehman Plan.**

17 The summary of the Lehman Plan that follows in this Section 1.5 is not intended to  
18 substitute for the more specific terms set forth in the Lehman Plan. If there are any discrepancies  
19 between the summary provided in this Section 1.5 and the Lehman Plan, the provisions of the  
20 Lehman Plan shall control. Additionally, the Cases of the Plan Debtors have been jointly  
21 administered, but not substantively consolidated. Accordingly, the Lehman Plan provides separate  
22 treatment for Holders of Claims and Interests against each Plan Debtor. The following is a general  
23 outline of the Lehman Plan.

24 (a) **Plan Debtors.** The Lehman Plan applies to 24 of the 26 Debtors.,  
25 being all of the Debtors other than SJD Development and SunCal III (the Estates of which are  
26 believed to hold no Assets of any significant current or potential value).

27 (b) **Generally.** The Lehman Creditors are owed, collectively,  
28 approximately \$2.179 billion secured by deeds of trust on certain of the Remaining Real Estate



1 Projects, certain Cash Collateral and other Assets of the Debtors' Estates. The Debtors have  
2 challenged the Lehman Creditors' Secured Claims, contending that (a) certain of the Lehman  
3 Creditors' Liens on the Assets of particular Debtors who are obligors under certain Lehman Loans  
4 are subject to being set aside because, among other things, other affiliated Debtors, rather than the  
5 obligor Debtors, received the benefit of such Lehman Loans (the Cross-Collateralization Claims)  
6 and (b) the Claims of the Lehman Creditors should be subordinated to the Claims of certain other  
7 Creditors allegedly harmed by the conduct of the Lehman Lenders (the Equitable Subordination  
8 Claims). The Lehman Lenders do not concur with these conclusions of the Debtors and with many  
9 of the factual contentions asserted as supporting or providing a basis for the Cross-Collateralization  
10 Claims or Equitable Subordination Claims.

11 Nonetheless, to enable the Debtors to emerge from bankruptcy, which the Lehman  
12 Lenders believe is in the interest of all Creditors, with a Plan that is fair to all constituencies and best  
13 preserves current values and prevents further deterioration in the values of the Assets of the Debtors,  
14 the Lehman Proponents have proposed the Lehman Plan through which they: (a) make available  
15 funds for ES Pro Rata Settlement Payments to settle the ES Claims of Settling ES Claimants; (b)  
16 propose, through the Lehman Plan Sale or Foreclosure Procedures, auctions of the Remaining Real  
17 Estate Projects at which third parties may bid for the Remaining Real Estate Projects and at which  
18 the Lehman Creditors and other Holders of Allowed Secured Claims may credit bid; (c) provide for  
19 the means of liquidation of the Remaining Other Assets and the distribution of Residual Cash for  
20 Holders of Allowed Claims; and (d) protect those ES Claimants who elect not to have the Estates  
21 settle their ES Claims by (i) making available the ES Litigation Loan to enable continued  
22 prosecution of the ES Claims in an ES Action, (ii) granting certain specific concessions, described  
23 below, that could facilitate the entry and collection of an ES Judgment and (iii) providing security  
24 for satisfaction of a Project Related Action Recovery.

25 (c) **Liquidating Trustee.** A Liquidating Trustee shall be appointed to  
26 oversee the realization of values from the Remaining Real Estate Projects and the Remaining Other  
27 Assets for the benefit of the Creditors of the Plan Debtors. The values of the Remaining Real Estate  
28 Projects and Remaining Other Assets (net of Post-Confirmation Expenses) shall be distributed to the

1 respective Creditors of the applicable Plan Debtors in accordance with the strict priority rules of the  
2 Bankruptcy Code, applied on a Plan Debtor-by-Plan Debtor basis, except as otherwise provided in  
3 the Lehman Plan and described below. No Assets from the Estates of the Plan Debtors created under  
4 law upon the commencement of the Plan Debtors' Cases will be left with the Plan Debtors on the  
5 Effective Date; instead, such Assets will remain vested in the Plan Debtors' Estates to be  
6 administered by the Liquidating Trustee, although the Liquidating Trustee could elect thereafter to  
7 abandon to the Lehman Debtors Assets of inconsequential value to the extent permitted in the  
8 Lehman Plan.

9 (d) **Disposition of the Remaining Real Estate Projects.** Within  
10 sixty (60) days after the Effective Date, the Liquidating Trustee shall sell or convey each of the  
11 Remaining Real Estate Projects for which the Successful Bidder is either a third party purchaser, a  
12 Lehman Nominee or another Holder of an Allowed Secured Claim, all pursuant to the Lehman Plan  
13 Sale or Foreclosure Procedures set forth herein below. An auction for the sale of each Remaining  
14 Real Estate Project will occur promptly after the Effective Date (but no later than sixty (60) days  
15 after the Effective Date) at which third party prospective purchasers, the Lehman Creditors and other  
16 Holders of Secured Claims may bid on any or all of the Remaining Real Estate Projects. The  
17 Lehman Creditors will make opening credit bids as set forth in Section 7.7.2(a) of the Lehman Plan  
18 for most of those Remaining Real Estate Projects and may elect to make a bid on any other  
19 Remaining Real Estate Project. Under the Lehman Plan, the Lehman Creditors are afforded the  
20 ability to credit bid up to the amount of their Claims as specified in Article IV of the Lehman Plan  
21 on a Project-by-Project basis; provided, however, that each of the Remaining Real Estate Projects  
22 conveyed to a Lehman Nominee shall become subject to a PRA Recovery Deed of Trust for the  
23 protection of the applicable Estate and its Creditors as and to the extent set forth in the Lehman Plan.

24 (e) **PRA Recovery Security Pool.** The Lehman Lenders dispute or may  
25 dispute all or substantially all of the Equitable Subordination Claims and the Cross-Collateralization  
26 Claims. If, however, some recovery were afforded to the Liquidating Trustee for the Estates in  
27 respect of the Equitable Subordination Claims in an ES Action or the Cross-Collateralization Claims  
28 in a Cross-Collateralization Action (*i.e.*, a Project Related Action Recovery), the values of the

1 Remaining Real Estate Projects on which Lehman Creditors hold Secured Claims and on which  
2 Lehman Creditors are bidding arguably would be available to satisfy the Project Related Action  
3 Recovery. Thus, to secure the satisfaction of a Project Related Action Recovery and thereby protect  
4 the Estates of the Plan Debtors and their Creditors (a) the Lehman Plan provides that certain Cash is  
5 to be held by the Liquidating Trustee in the Plan Reserve and (b) any Remaining Real Estate Project  
6 which is conveyed to a Lehman Nominee pursuant to the Lehman Plan Sale or Foreclosure  
7 Procedures shall be subject to a deed of trust in favor of the Liquidating Trustee (as defined below,  
8 the “PRA Recovery Deeds of Trust”) to secure the obligation of such Lehman Nominee to reconvey  
9 the Project acquired by such Lehman Nominee in the event of a Project Related Action Recovery,  
10 which obligation is to be set forth in a Reconveyance Agreement and, which reconveyance  
11 obligation may, at the Lehman Nominee’s election, instead be satisfied by a Cash payment in the  
12 amount of any Project Related Action Recovery. The Plan Reserve and PRA Recovery Deeds of  
13 Trust are referred to herein collectively as the “PRA Recovery Security Pool.”

14 (f) **Release of PRA Recovery Deeds of Trust.** Although the PRA  
15 Recovery Deeds of Trust generally shall remain in effect pending the final settlement or  
16 determination of the Project Related Actions, as provided herein, in order to permit the Lehman  
17 Nominees holding title to the Remaining Real Estate Projects (*i.e.*, the PRA Security Projects) to  
18 fully utilize such properties, the Lehman Plan also includes provisions by which (i) all of the PRA  
19 Recovery Deeds of Trust shall be released and all Reconveyance Agreements terminated upon there  
20 having been deposited Cash into the Plan Reserve equal to the Maximum PRA Recovery Amount  
21 and (ii) the PRA Recovery Deed of Trust encumbering a particular PRA Security Project shall be:  
22 (1) released and the corresponding Reconveyance Agreement terminated upon the sale of such PRA  
23 Security Project to a third party and the deposit of any Net Cash Proceeds resulting from such sale  
24 into the Plan Reserve and/or the provision of a substitute Lien on any non-Cash Net Proceeds  
25 resulting from such sale or (2) subordinated to the Lien of a new mortgage loan upon a refinancing  
26 of the particular PRA Security Project obtained by the applicable Lehman Nominee in its sole and  
27 absolute discretion, provided that all Net Cash Proceeds derived from such refinancing are deposited  
28 into the Plan Reserve.

(g) **Net Proceeds from Sales to Third Party Purchasers of Remaining**

**Real Estate Projects Subject to Lehman Creditor Secured Claim.** The Net Cash

Proceeds from the sale of any Remaining Real Estate Project that is subject to a Secured Claim of a Lehman Creditor and is sold to a third party purchaser, rather than conveyed to a Lehman Nominee, shall be deposited into the Plan Reserve, subject to certain limited uses as described in the Lehman Plan and the applicable Lehman Related Party(ies) shall be afforded a substitute Lien on any non-Cash Net Proceeds, in each case pending final settlement or determination of the Project Related Actions.

(h) **The Remaining Other Assets.** The Remaining Other Assets (other

than Cash) shall be liquidated by the Liquidating Trustee and the Net Cash Proceeds therefrom shall be available for payment of Claims and Creditors, as set forth herein below.

(i) **Equitable Subordination Claims.**

**Generally.** Under the Lehman Plan, ES Claimants are afforded the option to either accept the benefits of the ES Settlement, as provided in the Lehman Plan, or have the Liquidating Trustee continue prosecution of the Equitable Subordination Claims for their potential benefit. To incentivize ES Claimants to accept the Lehman Plan even if they do not accept the ES Settlement Offer, the Lehman Lenders are making available as set forth below funding for such continued prosecution of the Equitable Subordination Claims.

**ES Settlement Offer.**

**Funding for ES Settlement Offer.** The Lehman Lenders are making available funds for the ES Settlement Pro Rata Payments to Settling ES Claimants.

**Settlement by an Individual ES Claimant.** For each ES Claimant who votes for acceptance of the ES Settlement Offer on its Ballot and returns with the Ballot an ES Claimant Release and Assignment (included with the Ballot) duly executed by such ES Claimant, such ES Claimant will receive an ES Pro Rata Settlement Payment (*e.g.*, its relative share of the aggregate amount of the ES Settlement Amount).

**Full Settlement by an Estate.** If at least one-half in number and two-thirds in amount of the voting ES Claimants in any of the Estates of the Plan Debtors vote for acceptance of

1 the ES Settlement Offer on their Ballots and return with their Ballots duly executed ES Claimant  
2 Release and Assignments (with respect to such Estate, the “Estate Acceptance of the ES  
3 Settlement”), all ES Claimants of such Estate will be entitled to receive an ES Pro Rata Settlement  
4 Payment upon return with their Ballots or to the Lehman Lenders of a duly executed ES Claimant  
5 Release and Assignment. If there is Estate Acceptance of the ES Settlement for an Estate of a  
6 particular Plan Debtor, the Equitable Subordination Claims of such Estate will be fully settled,  
7 dismissed (with prejudice) and released, including as to ES Claimants who do not vote to accept the  
8 ES Settlement Offer, who vote to reject the ES Settlement Offer or who vote to accept the ES  
9 Settlement Offer but who fail to execute and deliver the ES Claimant Release and Assignment.

10 **Releases and Assignments.** In exchange for the consideration payable to each  
11 Settling ES Claimant: (A) the Liquidating Trustee will issue for or on behalf of each relevant Estate  
12 a release of all claims against the Lehman Releasees or any future owners of the applicable  
13 Project(s) (that were at any time owned by the Plan Debtor against which the applicable Allowed ES  
14 Claim is asserted), including the Lehman Nominees, which owners are or were successors or  
15 assignees of the applicable Debtor, as to, or to the extent attributable to, or to the extent any recovery  
16 would be payable with respect to, any or all of the ES Claims of the Settling ES Claimants (the  
17 “Estate ES Settlement Release” as more fully set forth and defined herein); and (B) in returning its  
18 Ballot accepting the ES Settlement Offer, each Settling ES Claimant by Vote also, itself, will be  
19 granting a release of all claims against the Lehman Releasees or any future owners of the applicable  
20 Project(s) as to, or to the extent attributable to, or to the extent any recovery is payable with respect  
21 to, any or all of the ES Claims of such Settling ES Claimant (the “ES Claimant Release and  
22 Assignment” as more fully set forth and defined in the Lehman Plan).

23 **Estimate of Recovery on Account of Allowed ES Claims to Those Accepting, or**  
24 **Deemed to have Accepted the ES Settlement Offer.** The ultimate recovery on account of an  
25 Allowed ES Claim to those accepting, or deemed to have accepted, the ES Settlement Offer will  
26 vary depending on the total amount of Allowed ES Claims. The Lehman Lenders estimate that the  
27 maximum total amount of Allowed ES Claims will not exceed approximately \$227.4 million and  
28 will likely be significantly less for the reasons stated below. Accordingly, to the extent each

1 potential ES Claimant holds an Allowed ES Claim and accepts the ES Settlement Offer, it is  
2 estimated that such ES Claimant will receive recovery on account of its Allowed ES Claim of not  
3 less than approximately 6.6%. It should be noted that the estimated amount of ES Claims used for  
4 purposes of calculating the estimated percentage recovery to ES Claimants (\$227.4 million) (the  
5 “Claims Estimate”) was not reduced to account for various factors that would likely result in a  
6 significant reduction of the Claims Estimate, namely: (a) no analysis was done and therefore no  
7 reduction was made to eliminate Claims (other than Claims filed by the Bond Issuers) which likely  
8 do not qualify as ES Claims (i.e., claims which arose prior to August 1, 2007) or which may  
9 otherwise be ultimately disallowed in accordance with the Claims allowance process in the Debtors’  
10 Cases, (b) although Claims filed by Bond Issuers in respect of bonds issued prior to August 1, 2007  
11 were disregarded for purposes of the Claims Estimate, no reduction was made to the Claims  
12 Estimate to account for the fact that many of the Claims filed by contractors and other parties are  
13 secured by payment bonds issued by the Bond Issuers who have accounted for such Claims in their  
14 own Proofs of Claims, thereby resulting in “overlapping” Claims, (c) Claims of Bond Issuers arising  
15 from performance bonds are contingent and will likely be significantly less than the face amount of  
16 such performance bonds (which face amounts provided the basis for the Proofs of Claim filed by the  
17 Bond Issuers) depending upon whether performance is demanded by the beneficiaries of such bonds  
18 and/or the actual cost of such performance. It is difficult to assess the impact that the factors  
19 described above will have to the Claims Estimate but the Lehman Proponents believe that these  
20 factors will result in a significant reduction in the Claims Estimate and thereby increase the  
21 estimated recovery for the Allowed ES Claims.

22 **Continued Prosecution of Equitable Subordination Claims.** Unless all of the Estates of  
23 the ES Plan Debtors accept the ES Settlement Offer (through the acceptance of the ES Settlement  
24 Offer by at least one-half in number and two-thirds in amount of the voting ES Claimants of each  
25 such ES Plan Debtor’s Estate), resulting in a dismissal (with prejudice), release and settlement of all  
26 Equitable Subordination Claims of all ES Plan Debtors’ Estates, the Liquidating Trustee may  
27 continue prosecution of the Equitable Subordination Claims in an ES Action seeking any alleged  
28 damages, subordination or other remedies that may be available for the benefit of and attributable to

1 the ES Claims of any Non-Settling ES Claimants, as determined by the court with jurisdiction over  
2 such actions; provided, that the PRA Recovery Security Pool will be the sole source for recovery on  
3 an ES Judgment, unless a Lehman Lender elects to pay Cash in lieu thereof.

4 **ES Litigation Loan.** Unless all of the ES Plan Debtors' Estates accept the ES  
5 Settlement Offer (through the acceptance of the ES Settlement Offer by at least one-half in number  
6 and two-thirds in amount of the voting ES Claimants of each such ES Plan Debtor's Estate), a  
7 Lehman Lender will make available a loan in the aggregate principal amount of up to \$1 million to  
8 the Liquidating Trustee for the Estates of those ES Plan Debtors for which the Liquidating Trustee  
9 continues to prosecute Equitable Subordination Claims, which loan may be used solely for the  
10 payment of ES Litigation Expenses (as more fully defined below, the "**ES Litigation Loan**").

11 **Concessions by Lehman Lenders to Facilitate Collection of an ES Judgments.**

12 Although the Lehman Lenders believe they will defeat any Equitable Subordination Claims in an ES  
13 Action, to further incentivize support of all ES Claimants for the Lehman Plan, including Non-  
14 Settling ES Claimants, the Lehman Lenders, solely in connection with and for confirmation and the  
15 effectiveness of the Lehman Plan, agree to the following in connection with entry of an ES Judgment  
16 subordinating the Lehman Secured Claims to the ES Claims, if any such judgment is entered:

17 A. **Excess Values Otherwise Available to Pay the Lehman Creditors**  
18 **from Certain ES Plan Debtors' Projects Are to be Collateral for Equitable Subordination**  
19 **Claims that Benefit ES Claimants of Other ES Plan Debtors.** For some particular ES Plan  
20 Debtors' Estates, the Net Cash Proceeds from the sale of their PRA Security Projects or other Assets  
21 likely would be insufficient to pay the Allowed ES Claims against those Estates and, for other  
22 particular ES Plan Debtors' Estates, such Net Cash Proceeds likely would exceed the Allowed ES  
23 Claims against their Estates. Instead of any such excess Net Cash Proceeds being available next to  
24 the Lehman Creditors, as Holders of Secured Claims or subordinated Secured Claims against their  
25 own estates, the Lehman Creditors, to their own detriment, have agreed, by virtue of permitting the  
26 PRA Security Pool to secure all ES Judgments, to voluntarily subordinate their remaining Secured  
27 Claims in any such excess values in the PRA Security Projects to any unpaid portion of an ES  
28 Judgment as to other ES Plan Debtors' Estates.

1                                    **B.      To Obtain the ES Judgment in the First Instance for Del Rio and**  
2                                    **SJD Partners, No Showing Will be Required that the Subject Estates Had Enough Value In**  
3                                    **Them to Pay their ES Claims Without Regard to Any Lehman Secured Claim.** As to the  
4 Estates of Del Rio and SJD Partners only, the Lehman Creditors will waive an objection or defense,  
5 that, even were the applicable Lehman Secured Claim ignored, there was insufficient value in those  
6 Estates to pay their Allowed ES Claims, provided that (I) all other grounds necessary to obtain an ES  
7 Judgment have been satisfied and (II) the applicable Estate executes the Del Rio / SJD Partners  
8 Release within forty-five (45) days following the Effective Date.

9                                    **(j)      Plan Funding by Lehman Lenders.** The Lehman Lenders will make  
10 substantial funding available to enable the confirmation and implementation of the Lehman Plan,  
11 including payment of certain Administrative Claims, Project related expenses, certain Post-  
12 Confirmation Expenses and certain settlement amounts. Such funding will be provided either (i)  
13 through new transfers of Cash by a Lehman Lender, or (ii) by the Lehman Lenders forgoing the full  
14 extent of adequate protection to which Lehman Creditors otherwise would claim entitlement with  
15 respect to their substantial Cash Collateral being held in escrow or held by the Estates and instead  
16 permitting use of such Cash Collateral, as and to the extent set forth more fully in the Lehman Plan.

17                                    **1.6      Recommendations.**

18                                    Your vote on the Lehman Plan is important. The Lehman Creditors urge you to vote  
19 accept the Lehman Plan by completing and returning the enclosed ballot(s) no later than the Voting  
20 Deadline (defined below) and urge the ES Claimants to vote to accept the ES Settlement Offer and  
21 execute and deliver the requested releases.

22                                    The Voting Deadline is set forth in a notice or order, which is sent as an  
23 accompaniment to the Lehman Disclosure Statement.

24                                    **II.**

25                                    **PLAN CONFIRMATION DEADLINES**

26                                    The Bankruptcy Court has not confirmed the Lehman Plan described in this Lehman  
27 Disclosure Statement. Accordingly, the terms of the Lehman Plan are not binding on anyone.  
28 However, if the Bankruptcy Court confirms the Lehman Plan, then the Lehman Plan will be binding



on the affected Debtors and on all Creditors and Holders in those Cases.

**2.1 Time and Place of the Confirmation Hearing.**

The hearing where the Bankruptcy Court will determine whether or not to confirm the Lehman Plan will take place at 411 West Fourth Street, Santa Ana, California 92701-4593 at \_ .m., in Courtroom 5A.

**2.2 Deadline for Voting for or Against the Lehman Plan.**

If you are entitled to vote, it is in your best interest to timely vote on the enclosed ballot and return the ballot and, if applicable, the ES Claimant Release and Assignment to:

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Blvd., 11th Floor  
Los Angeles, California 90067-4100  
Attention: \_\_\_\_\_

Your ballot must be **received by** \_\_\_\_\_, 2009 (the "Voting Deadline"), or it will not be counted.

**2.3 Deadline for Objecting to the Confirmation of the Lehman Plan.**

Objections to the confirmation of the Lehman Plan must be filed with the Bankruptcy Court, and served upon the following parties so that they are received by \_\_\_\_\_, 2009:

<b>Counsel for Lehman Creditors</b>	Richard M. Pachulski Dean A. Ziehl Robert B. Orgel Jeremy V. Richards PACHULSKI STANG ZIEHL & JONES LLP 10100 Santa Monica Blvd., 11th Floor Los Angeles, California 90067-4100  Edward Soto Shai Waisman WEIL, GOTSHAL & MANGES LLP 767 Fifth Avenue New York, NY 10153-0119
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**2.4 Identity of Person to Contact for More Information Regarding the Lehman Plan.**

Any interested party desiring further information about the Lehman Plan should contact the Lehman Creditors' counsel, Pachulski Stang Ziehl & Jones LLP, 10100 Santa Monica

Boulevard, 11<sup>th</sup> Floor, Los Angeles, California 90067, (310) 277-6910, attention: Richard M. Pachulski, Robert M. Orgel, or Jeremy V. Richards.

## **2.5 Disclaimer.**

Much of the information contained in this Lehman Disclosure Statement is either provided by the Debtors or the Trustee or is contained in the Elieff Disclosure Statement. The Lehman Proponents represent that they are unaware of any material inaccuracies in the information set forth herein.

The Bankruptcy Court has not yet determined whether or not the Lehman Plan is confirmable and makes no recommendation as to whether or not you should support or oppose the Lehman Plan.

The discussion in this Lehman Disclosure Statement regarding the Debtors may contain “forward looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995. Such statements consist of any statement other than a recitation of historical fact and can be identified by the use of forward looking terminology such as “may,” “expect,” “anticipate,” “estimate,” or “continue,” or the negative thereof or other variations thereon or comparable terminology. The reader is cautioned that all forward looking statements are necessarily speculative and there are certain risks and uncertainties that could cause actual events or results to differ materially from those referred to in such forward looking statements. The liquidation analyses, distribution projections, projections of financial results and other information are estimates only, and the timing, amount and value of actual distributions to Creditors may be affected by many factors that cannot be predicted. Therefore, any analyses, estimates, or projections may or may not turn out to be accurate.

## **III.**

### **BACKGROUND OF THE DEBTORS**

#### **3.1 The SunCal Companies and the Debtors.**<sup>3</sup>

SunCal’s business focused upon the “development” of residential land. A typical

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<sup>3</sup> The information set forth in this Article III is substantially identical to the information contained in Article IV of the Elieff Disclosure Statement. This information is designed to provide to the reader with a general background understanding of the Debtors and their operations.

SunCal development began with the acquisition of one or more parcels of raw land. Thereafter, the SunCal team developed a master plan for the acreage that incorporated streets, homes, parks, schools and commercial areas, and then it worked with the applicable municipal planning authorities (the city, county, state and federal) to secure the necessary approvals or “entitlements” to achieve such plan. This process, which required the assistance of land planners, civil engineers, architects, lawyers, and other land specialists, took a period of years. Once a master plan had been approved, SunCal provided for the grading of the project and the installation of the foundational infrastructure (streets, utilities, etc.) and then sold the lots or parcels within the project to merchant builders.

The land development process is inherently capital intensive due to size and costs of the assets being acquired, the front-loaded capital requirements, and the length of time between the initial acquisition and the ultimate realization of profits. A typical SunCal project was financed through an equity contribution coupled with a land or acquisition loan. Thereafter one or more development and entitlement credit facilities would either be incorporated into the acquisition loan, or an entirely new facility would be obtained to fund the development. In some cases a layer of mezzanine debt (secured by an equity ownership interest in the entity that owns the project) was employed to provide additional funding.

SunCal historically financed its projects with land acquisition and development loans using a number of different lenders, but over the past five years, the company formed a relationship with the Lehman Lenders and the Lehman Lenders became SunCal’s largest funding source.

The Debtors are twenty-six (26) entities formed to develop the Projects throughout California. Some of the Debtors directly own the Projects and others serve as holding companies, owning Allowed Interests in the Debtors that hold title to the Projects. SunCal Management, LLC, a non-debtor entity owned and controlled by Elieff.

### **3.2 The Debtors’ Primary Assets.**

The following is a general description of the Debtors and their primary Assets (other than the Litigation Claims) as of their respective Petition Dates, based solely upon the Debtors’ disclosures in the Elieff Disclosure Statement:

<b><u>NAME OF DEBTOR</u></b>	<b><u>ASSET DESCRIPTION</u></b>
Palmdale Hills	Palmdale Hills owns the Ritter Ranch Project. The Ritter Ranch

<u>NAME OF DEBTOR</u>	<u>ASSET DESCRIPTION</u>
(Voluntary Debtor)	Project consists of a 10,625 acre site situated in the City of Palmdale, in Los Angeles County, California. Grading of the first phase is complete with master infrastructure nearly 90% complete. The specific plan and the development agreement were approved in 1992 and allow for the development of up to 7,200 residential units. A vesting tentative parcel map consisting of 42 parcels has been processed and was recorded in 1995. Additionally, six vesting tentative tract maps totaling 553 lots were approved by the city in December 1995. All regulatory permits have been received.
	Palmdale Hills also owns personal property in the form of cash in the amount of approximately \$24 million and the Palmdale Hills CFD Bonds.
SCC Palmdale (Voluntary Debtor)	SCC Palmdale does not own any real property. SCC Palmdale is the Holder of the Allowed Interest in Palmdale Hills.
Acton Estates (Voluntary Debtor)	Action Estates owns the Acton Project consisting of a 175-acre site situated in Los Angeles County, California. The Acton Project is surrounded by mostly equestrian properties and light agricultural vacant land. The Acton Project is expected to consist of 136 units.
SunCal Beaumont (Voluntary Debtor)	SunCal Beaumont owns the Beaumont Heights Project, that originally consisted of a 1,191-acre site situated in the City of Beaumont, in Riverside County, California. The property is currently designated as low density residential use -rural residential use. The City of Beaumont is in the process of amending the general plan, preparing an environmental impact report and annexing the assemblage. The specific plan and tentative tract map are in the drafting stage. The Beaumont Heights Project was expected to consist of 1,203 units. A portion of the Beaumont Heights Project has been lost through foreclosure sales completed prior to the Petition Date.
SunCal Bickford (Voluntary Debtor)	SunCal Bickford owns the Bickford Ranch Project, consisting of a 1,940-acre site situated in the City of Penryn, in Placer County, California. The Bickford Ranch Project is fully entitled with an approved large lot tentative map, small lot tentative map, specific plan, design guidelines, development standards, and a development agreement. The offsite water and sewer improvements are mostly complete. Improvement plans for major roads and in-tract improvements were in process of being completed and a memorandum of understanding between the City and County for the regional sewer pipeline was in process. The Bickford Ranch Project is expected to consist of 2,105 units.

**NAME OF DEBTOR**

**ASSET DESCRIPTION**

SunCal Bickford owns personal property in the approximate amount of \$2,305,523 in the form of cash.

SunCal Emerald  
(Voluntary Debtor)

SunCal Emerald owns the Emerald Meadows Project, consisting of a 178-acre site situated in the City of Rubidoux, in Riverside County, California. The specific plan, general plan and the environmental impact report were approved in October 2005. The tentative tract map & final map were in process. The Emerald Meadows Project is expected to consist of 1,002 units.

SunCal Johannson  
(Voluntary Debtor)

SunCal Johannson owns the Johannson Ranch Project, consisting of a 501-acre site in the City of Modesto, in Stanislaus County, California. Tentative maps were in the process of being prepared. Engineering plans and preparation of the draft specific plan were commenced prior to the filing of the Debtors' Cases. The SunCal Johannson Project is expected to consist of 921 units.

SJD Partners  
(Voluntary Debtor)

SJD Partners currently owns no real property. SJD Partners formerly owned a project located in San Juan Capistrano known as the "Pacific Point Project." The Pacific Point Project was lost through a non-judicial foreclosure sale by Lehman ALI, pursuant to which a Lehman Affiliate, LV Pacific Point LLC ("LV PacPoint"), a Delaware limited liability company, purchased the Pacific Point Project at a foreclosure sale conducted on August 28, 2008. SJD Partners alleges a potential preference claim and other causes of action against the LV PacPoint (*See* Article IV, below.) SJD Partners owns personal property in the approximate amount of \$110,485, consisting of cash and accounts receivable.

SJD Development  
(Voluntary Debtor)

SJD Development does not own any real property. SJD Development is the Holder of an Allowed Interest in SJD Partners.

SunCal Summit Valley  
(Voluntary Debtor)

SunCal Summit Valley owns the Summit Valley Project that originally consisted of a 2,500-acre site situated in the City of Hesperia, in San Bernardino County, California. The City of Hesperia's general plan allows for low density residential development. SunCal Summit Valley anticipated approximately 2.5 lots per acre over the entire assemblage. Most of the technical studies for the environmental impact report were completed. The Summit Valley Project was previously expected to consist of 6,023 units. A part of the Summit Valley Project has been lost through foreclosure proceedings completed prior to the Petition Date.

SunCal Summit Valley is the Holder of the Allowed Interests in Seven Brothers and Kirby Estates.

**NAME OF DEBTOR**

**ASSET DESCRIPTION**

Seven Brothers (Voluntary Debtor)	Seven Brothers owned 900 acres of the Summit Valley Project, a portion of which has been lost through foreclosure proceedings completed prior to the Petition Date.
Kirby Estates (Voluntary Debtor)	Kirby Estates owns 27 acres of the Summit Valley Project.
SCC Communities (Voluntary Debtor)	SCC Communities owns the Joshua Ridge Project, consisting of an 80-acre site situated in the City of Victorville in San Bernardino County, California. The Joshua Ridge Project was slated to be sold to the city and the city was scheduled to use the land to build a park or a school.
Tesoro (Voluntary Debtor)	Tesoro owns the Tesoro Project consisting of a 185-acre site situated in the City of Santa Clarita in Los Angeles County, California. The existing entitlements include a tentative tract map approved by the planning commission, which allows for 45 lots.
Del Rio (Voluntary Debtor)	Del Rio does not own any real property. Del Rio owns the Del Rio CFD Bond Proceeds after use and application as provided in an Acquisition Agreement to be entered into between Del Rio and the City of Orange. The Acquisition Agreement will set forth certain terms for the acquisition of various facilities by the City of Orange from Del Rio, the issuance of the Del Rio CFD Bonds and the use and application of a portion of the proceeds of the Del Rio CFD Bonds for the construction of certain improvements and other applications, and with the remaining proceeds to go to Del Rio. It is anticipated that the Acquisition Agreement will provide for a maximum bond authorization in the amount of up to \$25 million. The Acquisition Agreement has not been finally negotiated and the maximum authorization amount may change.
SunCal I (Voluntary Debtor)	SunCal I does not own any real property. SunCal I is the Holder of Allowed Interests in Acton Estates, SunCal Bickford, SunCal Beaumont, SunCal Summit Valley, SunCal Johannson and SunCal Emerald.
SunCal III (Voluntary Debtor)	SunCal III owns no real or personal property.
Delta Coves (Trustee Debtor)	Delta Coves owns the Delta Coves Project consisting of a 310-acre site which is located on Bethel Island within Contra Costa County. The Delta Coves Project is expected to consist of 494 waterfront residential lots, some of which will be condominiums/townhomes and some of which will contain private boat docks. The Delta Coves Project is expected to include an interior lagoon that will provide direct boating access to San

**NAME OF DEBTOR**

**ASSET DESCRIPTION**

Joaquin River Delta.

SunCal Heartland  
(Trustee Debtor)

SunCal Heartland owns the Heartland Project consisting of a 417 acre site located in Riverside County, California. The Heartland Project is expected to consist of 983 units.

SunCal Marblehead  
(Trustee Debtor)

SunCal Marblehead owns the Marblehead Project, consisting of a 247-acre site and is expected to consist of 308 units in San Clemente, California. The development is expected to offer canyon and ocean views from a number of lots throughout the Marblehead Project.

SunCal Marblehead also owns personal property in the approximate amount of \$1,176,584 in the form of cash.

SunCal Northlake  
(Trustee Debtor)

SunCal Northlake owns the Northlake Project, consisting of a 1,564-acre site which is located in Castaic, California, north of Valencia, approximately 45 miles north of downtown Los Angeles and 10 miles north of the San Fernando Valley. The Northlake Project is expected to consist of 3,417 units.

SunCal Northlake also owns personal property in the amount of \$967,728 in the form of cash.

SunCal Oak Valley  
(Trustee Debtor)

SunCal Oak Valley owns the Oak Valley Project consisting of a 985-acre site which is located in Riverside County, California. The Oak Valley Project consists primarily of residential property and is expected to also include two commercial sites, one school site and several parks. The Oak Valley Project is expected to consist of 3,417 units.

SunCal Century City  
(Trustee Debtor)

SunCal Century City owns the 10000 Santa Monica Project, consisting of a 2-acre site which is located at the eastern edge of Century City, in Los Angeles County, California. The 10000 Santa Monica Project is expected to consist of 163 condominium units.

SunCal PSV  
(Trustee Debtor)

SunCal PSV owns the Palm Springs Village Project, consisting of a 309-acre site which is located in the City of Palm Springs, California. The current proposed development consists of 752 single family units, 398 multi-family units, an 18-hole executive golf course, a driving range, a golf clubhouse and recreational facilities.

SunCal Torrance  
(Trustee Debtor)

SunCal Torrance owns the Del Amo Project, consisting of a 14-acre site which is located in the City of Torrance in Los Angeles County, California. The site is currently a section of the Del Amo Fashion Center complex, a 3 million square feet retail mall. The

**NAME OF DEBTOR**

**ASSET DESCRIPTION**

1		
2		Del Amo Project is expected to consist of 365 units.
3	SunCal Oak Knoll	SunCal Oak Knoll owns the Oak Knoll Project, consisting of a
4	(Trustee Debtor)	172.5-acre site which is located in the City of Oakland, California.
5		The Oak Knoll Project is expected to be a diverse master planned
6		community that includes 960 residential units, including single
7		family homes, town homes and apartments. The Oak Knoll Project
		is also expected to consist of six restaurant spaces, along with a
		grocery anchor.

**3.3 Debt and Capital Structure.**

In the case of the seventeen Voluntary Debtors, SunCal Affiliates are the owners of one hundred percent (100%) of the equity and SunCal Affiliates have full corporate governance authority over the Voluntary Debtors. Eleven (11) of the Voluntary Debtors own nine (9) Projects:

(a) Four (4) Projects (Ritter Ranch Project; Acton Estates Project; Emerald Meadows Project; and Bickford Ranch Project) are owned, respectively, by Palmdale Hills, Acton Estates, SunCal Emerald, and SunCal Bickford. Lehman Commercial asserts a first priority lien by virtue of first-priority deeds of trust on each of these four Projects.

(b) Two (2) Projects (the Joshua Ridge and Tesoro Projects) are owned, respectively, by SCC Communities and Tesoro. Lehman ALI is the primary secured creditor on each of these two additional Projects.

(c) Two (2) Projects (the Johannson Ranch Project and Beaumont Heights Project) are owned, respectively, by SunCal Johannson and SunCal Beaumont. Lehman Commercial holds a first priority pledge of the membership interests in SunCal Johannson and SunCal Beaumont.

(d) One (1) Project (SunCal Summit Valley) is owned by three Debtors: SunCal Summit Valley, Kirby Estates and Seven Brothers, which each own a portion of the Project. Lehman Commercial holds a first priority pledge of the membership interests in SunCal Summit Valley, which in turn owns Kirby Estates and Seven Brothers.

Additionally, besides holding a first priority Lien directly on the Ritter Ranch Project, Lehman Commercial holds a first priority pledge of the membership interests in Palmdale Hills, which is the owner of the Ritter Ranch Project. Further, Lehman ALI was also the primary secured



creditor of SJD Partners' Pacific Point Project prior to a non-judicial foreclosure sale of the Pacific Point Project in August of 2008.

Various unrelated third parties are the primary secured creditors with respect to certain portions of two (2) of the Voluntary Debtors' Projects (SunCal Beaumont and SunCal Summit Valley -including portions thereof owned by Seven Brothers).

Although the equity interests in the entities owning the Johansson Ranch Project, the Summit Valley Project, and the Beaumont Heights Project have been pledged to the Lehman Lenders, there are no primary secured creditors on the following Projects or portions thereof: (i) the Johansson Ranch Project, (ii) portions of the Summit Valley Project, including portions owned by Kirby Estates and Seven Brothers, and (iii) portions of the Beaumont Heights Project.

As to the nine (9) Trustee Debtors, there are currently nine (9) Projects (the Delta Coves, the Heartland, the Marblehead, the Northlake, the Oak Valley, the Oak Knoll, the 10000 Santa Monica, the Palm Springs Village, and Del Amo Projects).

As of the Petition Dates, Affiliates of SunCal and Lehman Brothers Holdings Inc. both Interest Holders and (with the exception of the 10000 Santa Monica Project) the Lehman Lenders held a first priority lien and security interest in and to each of the foregoing Projects. Danske Bank alleges a first priority lien and security interest in and to the 10,000 Santa Monica Project.

In addition to the foregoing, there are miscellaneous Real Property Tax Claims, Other Secured Claims, Mechanic's Lien Claims, Priority Claims, Administrative Claims and General Unsecured Claims asserted against each of the Projects and each of the Debtors, summarized in the chart below (which chart is compiled from information disclosed in the Elieff Disclosure Statement).

DEBTOR	REAL PROPERTY TAX CLAIMS	ALLEGED SECURED CLAIMS	ALLEGED MECHANIC LIEN CLAIMS	PRIORITY AND ADMINISTRATIVE CLAIMS	DEBTORS' ALLOCATION OF BOND LIABILITY	GENERAL UNSECURED CLAIMS (EXCLUDING BOND CLAIMS)
Palmdale Hills	\$1,037,377	\$287,252,096	\$1,069,855	\$499,970	\$27,991,917	\$5,035,730
SSC Palmdale	\$0	\$119,664,305	\$0	\$0	\$0	\$0
SunCal Heartland	\$559,022	\$354,325,126	\$1,552,794	\$231,873	\$28,947,440	\$1,827,151

DEBTOR	REAL PROPERTY TAX CLAIMS	ALLEGED SECURED CLAIMS	ALLEGED MECHANIC LIEN CLAIMS	PRIORITY AND ADMINISTRATIVE CLAIMS	DEBTORS' ALLOCATION OF BOND LIABILITY	GENERAL UNSECURED CLAIMS (EXCLUDING BOND CLAIMS)
SunCal Marblehead	\$379,156	(same as SunCal Heartland)	\$1,288,212	\$740,382	\$56,510,018	\$45,528,422
SunCal Beaumont	\$365,954	\$4,825,659	\$46,188	\$33,672	\$0	\$183,731
SunCal Oak Knoll	\$2,356,036	\$158,141,365	\$4,700,604	\$874,609	\$0	\$1,135,298
SunCal Torrance	\$567,669	(same as SunCal Oak Knoll)	\$0	\$160,914	\$0	\$203,838
SCC Communities	\$5,900	\$23,795,013	\$0	\$27,072	\$0	\$32,813
Del Rio	\$0	(same as SSC Communities)	\$0	\$261,542	\$3,159,945	\$4,806,170
Tesoro	\$70,239	(same as SSC Communities)	\$0	\$118,891	\$0	\$170,969
SunCal Bickford	\$2,887,678	\$343,221,391 (Bickford 1 <sup>st</sup> )	\$3,477,120	\$345,221	\$2,827,548	\$7,319,277
		\$56,494,059 (Bickford 2 <sup>nd</sup> )		\$0		
SunCal Emerald	\$284,974	(same as Bickford 1 <sup>st</sup> )	\$1,279,043	\$188,695	\$0	\$7,878,901
Acton Estates	\$200,454	(same as Bickford 1 <sup>st</sup> )	\$0	\$59,242	\$1,290,000	\$138,250
SunCal I		(same as Bickford 1 <sup>st</sup> )	\$0	\$0	\$0	\$0
Summit Valley	\$573,775	(same as Bickford 1 <sup>st</sup> )	\$16,827	\$48,018	\$0	\$1,076,053
		\$2,504,750				
SunCal III	\$0	(same as Bickford 1 <sup>st</sup> )	\$0	\$0	\$0	\$459
Seven Brothers	\$60,828	\$3,427,066	\$0	\$0	\$0	\$0
Kirby Estates	\$1,744	\$0	\$0	\$0	\$0	\$0
SunCal Johannson	\$75,107	\$0	\$0	\$34,101	\$0	\$41,181
Delta Coves	\$609,222	\$206,023,142	\$122,535	\$448,061	\$27,755,885	\$7,436,746
SJD Development	\$0	\$0	\$0		\$0	\$368,362
SJD Partners	\$0	\$0	\$0	\$244,090	\$0	\$51,265,349
SunCal Century City	\$1,407,213	\$120,000,000	\$1,434,520	\$1,040,005	\$0	\$3,289,632
SunCal Northlake	\$1,189,919	\$123,654,777	\$0	\$729,432	\$0	\$911,296
SunCal Oak Valley	\$280,280	\$141,630,092	\$1,662,309	\$138,443	\$26,167,563	\$3,437,919
SunCal PSV	\$589,367	\$88,257,340	\$2,316,430	\$315,213	\$18,405,548	\$3,486,795
<b>Total</b>	<b>\$13,501,914</b>	<b>\$2,033,216,181</b>	<b>\$18,966,437</b>	<b>\$6,539,446</b>	<b>\$193,055,864</b>	<b>\$66,244,189</b>

• Certain Proofs of Claims filed against Palmdale Hills appear to be misfiled and relate to other Debtors.

- 1                   •       Certain Disputed Claims, such as duplicative Claims, have been deducted  
2 from the figures above.
- 3                   •       The Debtors have not yet completed their investigation on what Claims are  
4 Allowed Claims and their listing herein should not be construed as providing for Allowance under  
5 the Lehman Plan. Administrative Claims are ongoing.
- 6                   •       \$275,918 of Mechanic's Lien claims asserted against Del Rio and \$1,996,537  
7 of Mechanic's Lien claims asserted against SJD Partners have been classified as General Unsecured  
8 Claims since neither Del Rio nor SJD Partners own any underlying real property.
- 9                   •       The Debtors have assumed Bond Claims according to the Bond Claims arising  
10 from the particular Debtors' Projects. The Bond Issuers have asserted various Bond Claims against  
11 the Debtors in the approximate amount of \$230 million (representing approximately \$155 million by  
12 Arch and \$75 million by Bond Safeguard, some of which Claims are not the subject of timely filed  
13 proofs of claim). The Bond Issuers assert that their Bond Claims are joint and several against all of  
14 the Debtors, which the Debtors dispute as lacking consideration and fraudulent conveyances to the  
15 extent that such Bond Claims do not arise from or exceed the amount of Bond Claims attributed to  
16 the Project of each Debtor. The Lehman Lenders adopt this view and further believe that Arch can  
17 only assert liability against the Debtor for whose benefit it issued a bond as the Debtors have no joint  
18 and several liability with respect thereto.
- 19                   •       The Debtors believe that the \$368,362 Claims filed against SJD Development  
20 should have been filed against SJD Partners

21                   The Lehman Lenders do not believe that the liquidated Bond Claims will be nearly as  
22 much as the face amount of Bond Claims allocated by the Debtors to each Project. For instance,  
23 certain of the Bond Claims include bonded obligations for projects that do not relate to any of the  
24 Projects or Debtors. Further, as of March 2009, the liquidated claims of Arch (the Debtors' primary  
25 bonding company) were only \$132,000 based upon proofs of claim filed by Arch in the Bankruptcy  
26 Cases. Further, the majority of the Bond Claims relate to obligations under performance bonds. At  
27 this time, it is unknown what portion of the bond claims will ultimately become liquidated.  
28

### 3.4 Asset Values.

The below chart sets forth the appraised value of most of the Debtors' Projects based upon appraisals prepared for the Lehman Lenders during the pendency of the Bankruptcy Cases, and SunCal's stated valuation opinions for all of the Projects and the Del Rio CFD Bond Proceeds.

NAME OF DEBTOR	APPRAISED VALUE OF DEBTORS' PROJECTS BASED UPON APPRAISALS PREPARED FOR LEHMAN LENDERS DURING THE PENDENCY OF THE DEBTORS' CHAPTER 11 PROCEEDING	SUNCAL'S STATED VALUATION OPINIONS
SunCal Bickford	\$29,500,000	\$21,000,000
SunCal Emerald	\$12,000,000	\$6,000,000
Palmdale Hills	\$42,900,000	\$27,000,000
Tesoro	\$1,850,000	\$1,500,000
SCC Communities	\$1,200,000	\$1,000,000
SunCal Marblehead	\$187,500,000	\$74,000,000
SunCal Heartland	\$7,900,000	\$5,000,000
OVC Holdings	\$20,900,000	\$12,000,000
Northlake Holdings	\$23,000,000	\$4,000,000
SunCal Oak Knoll	\$48,000,000	\$32,000,000
SunCal PSV	\$13,800,000	\$10,000,000
SunCal Torrance	\$25,000,000	\$16,000,000
Delta Coves	\$25,200,000	\$22,000,000
SunCal Century City	\$50,900,000	\$39,000,000
SunCal Beaumont	\$1,200,000 (SunCal Opinion)	\$1,200,000
Acton Estates	\$6,800,000	\$3,400,000
SunCal Johansson	\$4,000,000	\$2,100,000
SunCal Summit Valley	\$2,200,000	\$750,000
Kirby Estates	\$2,800,000	1,000,000

NAME OF DEBTOR	APPRAISED VALUE OF DEBTORS' PROJECTS BASED UPON APPRAISALS PREPARED FOR LEHMAN LENDERS DURING THE PENDENCY OF THE DEBTORS' CHAPTER 11 PROCEEDING	SUNCAL'S STATED VALUATION OPINIONS
Seven Brothers	\$200,000	\$75,000
Del Rio	\$4,500,000 (SunCal Opinion)	\$4,500,000
SJD Partners	\$25,000,000 (SunCal Opinion)	\$25,000,000
<b>TOTAL</b>	<b>\$536,350,000</b>	<b>\$308,525,000</b>

- The Lehman Lenders' appraised value of the Summit Valley Project includes the portions of the Summit Valley Project owned by Seven Brothers and Kirby Estates. The appraisal values the property that is owned outright by SunCal Summit, Seven Brothers and Kirby Estates, and not subject to other third-party seller financing lien holders.

- The Lehman Creditors do not have an appraisal of the Project belonging to SunCal Beaumont. However, the Lehman Lenders have a Lien on SunCal I's Allowed Interest in SunCal Beaumont. SunCal has stated that it believes that the value of the Beaumont Heights Project is \$1,200,000, net of portions of the Project that are expected to be lost through foreclosure sales conducted by third-party seller financing lien holders.

- The Lehman Creditors do not have an estimate for the Del Rio CFD Bond Proceeds. SunCal has stated that it believes that the Del Rio CFD Bond Proceeds subject to the Lehman Lenders' liens have a value of \$4.5 million.

- The Lehman Creditors do not have an appraisal for the Pacific Point Project (SJD Partners' former Project which is subject to a potential Avoidance Action discussed below). Lehman ALI non-judicially foreclosed on the Pacific Point Project on August 28, 2008, and an Affiliate of Lehman ALI (LV Pacific Point) acquired title to the Pacific Point Project at the foreclosure sale. SunCal has stated that it believes the Pacific Point Project has a fair market value of \$25 million.

### **3.5 A Summary of the Lehman Creditors' Loans.**

Of the 18 Remaining Real Estate Projects of the Debtors, 14 are subject to first priority Liens in favor of the Lehman Creditors by virtue of first-priority deeds of trust:

- (a) Ritter Ranch Project;
- (b) Acton Estates Project;
- (c) Emerald Meadows Project;
- (d) Bickford Ranch Project;
- (e) Joshua Ridge Project;
- (f) Tesoro Project;
- (g) Delta Coves Project;
- (h) Heartland Project;
- (i) Marblehead Project;
- (j) Northlake Project;
- (k) Oak Valley Project;
- (l) Oak Knoll Project;
- (m) Palm Springs Village; and
- (n) Del Amo Project.

As to another three of the Remaining Real Estate Projects or portions thereof, the Lehman Lenders hold first priority Liens against the five parent Debtors' Interests in the five (5) Debtors that own the Projects:

	<u>Parent Debtor Holding Pledged Interests</u>	<u>Collateral</u>	<u>Owner Debtor</u>	<u>Project</u>
(i)	SunCal I	LLC Interests in SunCal Johannson	SunCal Johannson	Johannson Ranch Project
(ii)	SunCal I	LLC Interests in Suncal Beaumont	SunCal Beaumont	Beaumont Heights Project
(iii)	SunCal I	LLC Interests in SunCal Summit Valley	SunCal Summit Valley	Summit Valley Project (portion)
(iv)	SunCal Summit Valley	LLC Interests in Kirby Estates	Kirby Estates	Summit Valley Project (portion)
(v)	SunCal	LLC Interests	Seven	Summit

	<u>Parent Debtor Holding Pledged Interests</u>	<u>Collateral</u>	<u>Owner Debtor</u>	<u>Project</u>
	Summit Valley	in Seven Brothers	Brothers	Valley Project (portion)

As to the final project, 10000 Santa Monica Project, Danske Bank holds the first priority Lien.

The Lehman Lenders also hold other Liens in other of the Debtors' property, *e.g.*, a Lien in the Del Rio CFD Bond Proceeds, Liens against SunCal I's Interests in SunCal Bickford, Acton Estates and SunCal Emerald, a second priority Lien against the Bickford Ranch Project, a Lien against SCC Palmdale's Interest in Palmdale Hills and a Lien in all, or substantially all, of the Debtors' cash balances (Cash Collateral) and receivables and other rights relating to the Projects in which they assert Liens.

The various Lehman Loans, the entities against which they are asserted and the Allowed Amount of each Lehman Loan as of the Petition Date for the purposes of the Lehman Plan are all set forth in the summary of the Class 2 Lehman Secured Claims under the Lehman Plan, commencing at page 59 of the Lehman Disclosure Statement.

### **3.6 Filing of Proofs of Claim with Respect to the Lehman Loans.**

On or before the bar date for filing proofs of claim, the Lehman Lenders filed proofs of claim on account of all of the Lehman Loans. All or portions of seven of the outstanding Lehman Loans (the "Repurchase Lehman Loans") are subject to outstanding repurchase agreements with Fenway Capital. Based upon this fact, the Debtors moved to strike all of the proofs of claim filed by the Lehman Lenders on the basis that they allegedly do not own the Repurchase Lehman Loans. The Lehman Lenders opposed the motion, asserting that they own the Repurchase Lehman Loans because the repurchase agreements with Fenway Capital were transfers for security only, and that they had the power and authority to file the related proofs of claim.

The Bankruptcy Court held a hearing on the foregoing motion to strike on June 30, 2009. At that hearing, the Bankruptcy Court determined, over the objection of the Lehman Lenders, that the Repurchase Lehman Loans had actually been "sold" to Fenway Capital (rather than having been pledged to Fenway Capital as collateral for a loan, as asserted by the Lehman Lenders). The

1 Bankruptcy Court ruled that the proofs of claim relating to those loans would be stricken unless the  
2 Lehman Lenders could prove that they were authorized to file proofs of claim as agent for Fenway  
3 Capital. A hearing on this outstanding issue has been set for September 22, 2009.

4 The Lehman Lenders contend that the Bankruptcy Court's ruling with respect to the  
5 Repurchase Lehman Loans is erroneous and, if the Bankruptcy Court finally determines that the  
6 Lehman Lenders were not authorized to file proofs of claim on account of the Repurchase Lehman  
7 Loans, will likely appeal the Bankruptcy Court's ruling. However, even if the Bankruptcy Court  
8 rules that the Lehman Lenders were not authorized to file proofs of claim on behalf of the  
9 Repurchase Lehman Loans and an appellate court upholds the Bankruptcy Court's ruling, the  
10 Lehman Lenders contend that the only effect of such rulings would be that the Lehman Lenders (or  
11 Fenway Capital) would be unable to assert unsecured deficiency claims against the Plan Debtors'  
12 Estates. The Lehman Lenders believe, however, that such a ruling would not in any way invalidate  
13 the Liens in and to the Debtors' assets created pursuant to the Lehman Loans and that all of the  
14 rights and remedies relating to such Liens, including the right to foreclose on the underlying  
15 collateral and credit bid at a foreclosure sale pursuant to the terms of the Lehman Plan, would not in  
16 any way be invalidated or impaired by such rulings.

#### 17 IV.

#### 18 **DEBTORS' ALLEGED CLAIMS AGAINST THE LEHMAN LENDERS**

##### 19 **4.1 Introduction.**

20 As more fully set forth in the Elieff Disclosure Statement, the Elieff Plan Proponents  
21 contend that the Debtors or certain of the Debtors' Creditors have substantial claims against the  
22 Lehman Lenders with respect to the Lehman Loans that would result either in the subordination of  
23 the Lehman Loans to payment in full of all, or a substantial portion of the Debtors' Creditors, the  
24 avoidance or setting aside of various Claims and Liens that the Lehman Creditors assert against  
25 certain Debtors and/or recovery of substantial monies by one or more of the Debtors from the  
26 Lehman Lenders. Those claims fall into five general categories: (i) the Section 506(d) Claims; (ii)  
27 the Equitable Subordination Claims; (iii) the Fraudulent Transfer Claims; (iv) the Preference Claims;  
28 and (v) the Breach of Fiduciary Duty Claims. The nature of these claims and the Lehman Creditors'



analysis of their merits and likely value is discussed in Articles 4.2 through 4.6, below.

**4.2     The Debtors' Disputes Relating to the Allowed Secured Claims of Fenway Capital Pursuant to Bankruptcy Code Section 506.**

Bankruptcy Code section 506(a) provides that an asserted secured claim is only an Allowed Secured Claim to the extent of the value of such Creditors' interest in the Estate's interest in such property. Bankruptcy Code section 506(d) provides that to the extent a lien secures a claim against a debtor that is not an allowed secured claim, such lien is void subject to certain exceptions. Finally, Bankruptcy Code section 551 provides that such liens that are void under section 506(d) are preserved for the benefit of the applicable debtor's estate.

In Article 4.4 of the Elieff Disclosure Statement, the Elieff Plan Proponents contend that based upon the Lehman Lenders' appraised values (as set forth in Article 3.4, above), there is no value to the collateral supporting the Lehman ALI's second deed of trust on the Bickford Ranch Project, the pledge of SCC Palmdale's Allowed Interests in Palmdale Hills to Lehman Commercial, or the pledge of SunCal I's Allowed Interests in Acton Estates, SunCal Summit Valley, SunCal Bickford, and SunCal Emerald to Lehman Commercial. (The foregoing assertions are clearly erroneous as to Lehman Commercial's first priority lien in SunCal I's Allowed Interest in SunCal Summit. Based upon the Lehman Lenders' appraisal, the SunCal Summit Valley Project is worth approximately \$2.2 million and, based upon the Elieff Disclosure Statement, SunCal Summit Valley has obligations that are less than this appraised value, resulting in equity value in the membership interest and the pledge of that interest to the Lehman Commercial.) However, disallowance of the foregoing alleged Secured Claims and avoidance of the foregoing alleged Liens for the benefit of the respective Debtors' Estates does not generate or create any value or unencumbered assets for distribution to general unsecured creditors of any of the Debtors. The Bickford Ranch Project, the Acton Estates Project, the Emerald Meadows Project, the Summit Valley Project and the Ritter Ranch Project are all subject to senior liens in favor of Lehman Commercial and all of the value in those projects must be distributed or paid to the applicable Lehman Creditors on account of the foregoing, valid senior liens. Thus, even if the assertions of the Elieff Plan Proponents in Article 4.4 of the Elieff Disclosure Statement were correct, they would likely be of no economic consequence to

1 the Debtors' Creditors.

2 **4.3 The Elieff Plan Proponents Assertions regarding Fraudulent Transfer Actions**  
3 **Against the Lehman Lenders Arising under Various Cross-Collateralized**  
4 **Lehman Loans.**

5 In Article 4.5(a) of the Elieff Disclosure Statement, the Elieff Plan Proponents  
6 contend that certain Claims and Liens of the Lehman Lenders can be set aside and avoided pursuant  
7 to Bankruptcy Code sections 544, 548, 502(d) and 551 on the theory that at least part of the Claims  
8 and Liens identified therein relate to monies received by a Debtor other than the Debtor with a  
9 secured obligation to repay those monies. The Elieff Plan Proponents contend the Lehman Lenders  
10 may only assert a Claim and Lien against a particular Debtor to the extent that particular Debtor  
11 actually received monies on account of the subject Claim (rather than to the extent the Debtor  
12 guaranteed and secured repayment of monies received by an Affiliate).

13 There are numerous problems with this theory of recovery, not the least of which is  
14 that a guarantee or co-obligor obligation (and the lien securing such obligation) based upon monies  
15 advanced to an Affiliate can only be set aside if the Debtor incurring such obligation or granting  
16 such lien was insolvent, or was rendered insolvent (as insolvency is defined in section 544 and  
17 applicable state law or section 548) by virtue of incurring the secured obligation at the time the  
18 obligation and lien were incurred. Article 4.5 of the Elieff Disclosure Statement does not allege that  
19 the subject cross-collateralization identified therein was incurred by any Debtor at a time when the  
20 Debtor was, or was thereby rendered, insolvent. The Lehman Creditors believe that in all, or  
21 substantially all instances of cross-collateralization identified by the Elieff Plan Proponents, the  
22 Debtor incurring the secured obligation was not insolvent, nor was it rendered insolvent (as such  
23 term is defined by applicable law) at the time the Lien and obligation were incurred.

24 Furthermore, the Elieff Plan Proponents concede in Article 4.5 of the Elieff  
25 Disclosure Statement that the Liens and Claims of Lehman Lenders cannot be set aside to the extent  
26 that funds were actually received by the obligor/pledgor. Taking the amount of funds that the Elieff  
27 Plan Proponents concede each of the relevant Debtors received (as set forth at page 46 of the Elieff  
28 Disclosure Statement) and comparing that number with the Debtors' estimate of the value of the

1 related collateral pledged in favor of the Lehman Lenders (derived from page 37 of the Elieff  
2 Disclosure Statement), it is clear that in only one instance (the Acton Project) is the amount of funds  
3 allegedly received (\$380,000) less than the value of the pledged collateral (in this case, \$3.4  
4 million). Thus, even if the Fraudulent Transfer Claims identified in section 4.5(a) of the Elieff  
5 Disclosure Statement are valid, they would at best generate a recovery of approximately \$3.02  
6 million and then only for the benefit of Creditors of the Acton Estate. However, as Bankruptcy  
7 Code section 550 limits recovery “for the benefit of the estate” and the Lehman Creditors contend  
8 that fraudulent transfer claims cannot be prosecuted for the benefit of equity holders, the potential  
9 recovery on account of the foregoing Fraudulent Transfer Claims would be capped at no more than  
10 approximately \$1.4 million, the unsecured claims asserted against the Acton estate according to the  
11 Elieff Disclosure Statement (disclosure at page 56 thereof).

12 Even if the fraudulent conveyance alleged with respect to the cross-collateralization  
13 set forth in the SSC Palmdale Loan (Elieff Disclosure Statement, Article 4.5(b)), had merit, the value  
14 to the estate of SSC Palmdale is zero, as noted by the Elieff Plan Proponents at page 42 of the Elieff  
15 Disclosure Statement. The collateral, SSC Palmdale’s Allowed Interest in Palmdale Hills, therefore  
16 is worthless.

17 Likewise, even if the claims asserted in Article 4.5(c) and (d) of the Elieff Disclosure  
18 Statement were valid and the requisite insolvency could be proven, the Elieff Plan Proponents have  
19 conceded that the Claims and Liens of the Lehman Lenders are valid at least to the extent of  
20 proceeds received by the obligor/pledgor. As the proceeds received by SunCal Oak Knoll and  
21 SunCal Torrance (\$103.5 million and \$45 million, respectively) exceed SunCal’s estimate of the  
22 value of the underlying pledged collateral (\$48 million and \$25 million, respectively), the Fraudulent  
23 Transfer Claims identified in Articles 4.5(c) and (d) of the Elieff Disclosure Statement are without  
24 merit.

25 Finally, with respect to the claims identified in Article 4.5(e) of the Elieff Disclosure  
26 Statement relating to the Interim Loan Agreement, assuming insolvency as of the date such  
27 obligations were incurred can be proved, the maximum potential liability of the Lehman Lenders  
28 would be approximately \$1.5 million as to the Tesoro Estate and \$4.5 million as to the Del Rio

1 Estate. However, based on the Elieff Proponents' own numbers, the unsecured claims at those  
2 estates total approximately \$290,000 and \$270,000, respectively, therefore capping the maximum  
3 potential recovery on account of such alleged Fraudulent Transfer Claims at approximately  
4 \$560,000.

5 While the Lehman Lenders believe that the Fraudulent Transfer Claims outlined in  
6 Article 4.5 of the Elieff Disclosure Statement are without merit, making assumptions most favorable  
7 to the Debtors, the maximum aggregate exposure of Lehman Lenders to such Fraudulent Transfer  
8 Claims is no more than approximately \$2 million, and the probable value of litigation on such claims  
9 significantly less.

#### 10 **4.4 Alleged Preference Claims Against the Lehman Lenders.**

11 In Article 4.6(a)(1) through (3) of the Elieff Disclosure Statement, the Elieff Plan  
12 Proponents assert that Delta Coves, SunCal Century City and SunCal Marblehead Heartland Master  
13 LLC made prepetition transfers in the one year preceding the Petition Date to Lehman Lenders in the  
14 sums of approximately \$6.5 million, \$10.6 million, and \$3.4 million, respectively. The Elieff  
15 Disclosure Statement asserts, without any further support, that these payments are recoverable as  
16 preferences. However, there is absolutely no factual support in the Elieff Disclosure Statement to  
17 support these contentions. In particular, it would be necessary for the Debtors to establish balance  
18 sheet insolvency (as required by Bankruptcy Code section 547) in order to be able to maintain a  
19 preference recovery. Furthermore, and perhaps more importantly, the Lehman Lenders assert (or in  
20 the case of SunCal Century City, at all relevant times asserted) validly perfected first priority  
21 security interests and deeds of trust in and to all of the material assets of the Debtors that the Elieff  
22 Plan Proponents contend may have made alleged preferential transfers. Under such circumstances, a  
23 transfer of some or all of the collateral of a validly perfected secured creditor (even an undersecured  
24 creditor) cannot constitute a recoverable preferential transfer as it does not have the effect of  
25 depleting assets otherwise available to pay unsecured creditors. Furthermore, as noted above, the  
26 Lehman Lenders contend that pursuant to Bankruptcy Code section 550, preferences can only be  
27 recovered for the benefit of unsecured creditors of the transferor. The Lehman Lenders believe that  
28 for these, and other reasons that will be asserted at the appropriate time, the preference claims that

1 have been alleged against them are wholly, or largely, without merit and are unlikely to result in  
2 Creditors receiving a meaningful recovery.

3 Finally, the status of any preference claim against Lehman Commercial (which is  
4 itself a debtor in a chapter 11 proceeding before the United States Bankruptcy Court for the Southern  
5 District of New York) is subject to the treatment in that chapter 11 case. Specifically, there is a  
6 distinct possibility that such a claim may be treated as a general unsecured claim in Lehman  
7 Commercial's bankruptcy, which claim is subject to an uncertain recovery.

8 In Article 4.6(b) of the Elieff Disclosure Statement, the Elieff Plan Proponents  
9 contend that the foreclosure by Lehman ALI on its second priority deed of trust against the Pacific  
10 Point Project in August 2008 constituted a preferential transfer because there was no equity value  
11 supporting the second priority deed of trust. "Specifically, the fair market value of the Pacific Point  
12 Project was and remains approximately \$25 million and the alleged obligations securing the first  
13 deed of trust was approximately \$100 million." Elieff Disclosure Statement, page 52. However,  
14 based upon the Elieff Plan Proponents' own assertions, it is clear that the bankruptcy estate of SJD  
15 Partners (and in turn, the unsecured creditors of that Estate) were not deprived of any value by virtue  
16 of the alleged foreclosure. Indeed, based upon the Elieff Disclosure Statement, Lehman ALI, as the  
17 beneficiary under the first deed of trust, is undersecured by more than \$75 million. Under these  
18 circumstances, no valid preference claims can be asserted against the Lehman Lenders based on the  
19 foregoing transactions.

20 **4.5 The Equitable Subordination Claims Relating to the Lehman Lenders'**  
21 **Claims.**

22 Article 4.9 of the Elieff Disclosure Statement sets forth the basis upon which the  
23 Elieff Plan Proponents believe that the Lehman Creditors' Claims could be "equitably subordinated"  
24 to the claims of all other unsecured creditors such that distributions that would otherwise be made by  
25 the Debtors to the Lehman Creditors on account of their senior secured claims could be redistributed  
26 to junior, unsecured creditors.

27 As the Elieff Plan Proponents acknowledge in Article 4.9(b) of the Elieff Disclosure  
28 Statement, equitable subordination requires findings that: the claimant whose claim is sought to be

1 equitably subordinated engaged in some type of inequitable conduct; the conduct injured creditors,  
2 or conferred an unfair advantage on the claimant; and subordination would not be inconsistent with  
3 the Bankruptcy Code. Additionally, applicable case law provides that claims can be subordinated  
4 only to the extent necessary to offset the injury to a debtor or its creditors and that the concept of  
5 equitable subordination is remedial, not penal, and is a measure that should be used only sparingly.  
6 Furthermore, the applicable provision of the Bankruptcy Code (section 510(c)) is clear that a claim  
7 may only be subordinated to “all or part of [another] allowed claim” but that a claim cannot be  
8 subordinated to an interest.

9 In January 2009, certain of the Debtors commenced an action in the Bankruptcy  
10 Cases (the ES Action), seeking to subordinate all of the Lehman Creditors’ Claims and the Danske  
11 Bank Claim to payment in full of all unsecured claims against those Debtors and named the Lehman  
12 Lenders, Fenway Capital and Danske Bank as defendants (collectively, the “ES Defendants”).

13 The primary basis of the Equitable Subordination Action as originally filed was that,  
14 beginning in or about August of 2007, the Lehman Lenders took over effective control of all of the  
15 material aspects of the Debtors’ projects operations without regard as to whether a Lehman entity  
16 was the lender or whether a Lehman entity was an equity member and caused the Debtors to incur  
17 substantial unsecured vendor claims with the promise of payment that went unfulfilled. The Debtors  
18 twice amended their complaint, and thereafter the Lehman Lenders moved to dismiss the second  
19 amended complaint for failure to state a claim upon which relief could be granted. At a hearing held  
20 on June 11, 2009, the Bankruptcy Court granted the foregoing motion to dismiss, with leave to  
21 further amend the complaint. The Bankruptcy Court found that the Debtors had failed to (1) state a  
22 claim regarding insider status; (2) tie specific defendants to inequitable conduct or sufficiently state  
23 the basis of imputing such conduct; (3) adequately allege “gross and egregious conduct”; (4) identify  
24 particular inequitable conduct of defendants against particular Debtor plaintiffs; (5) sufficiently  
25 identify the alleged injured creditors; and (6) allege fraudulent conduct with particularity.

26 In July 2009, the Debtors filed a third amended complaint that added new causes of  
27 action alleging preference and fraudulent transfer liability, certain post-petition “bad acts” of the  
28 Lehman Lenders, but otherwise asserted similar allegations as the prior filed complaints. The

1 deadline for all ES Defendants (including the Lehman Lenders) to respond to the third amended  
2 complaint is September 30, 2009, and the Lehman Lenders intend to file a motion to dismiss such  
3 complaint.

4 Notwithstanding the foregoing, the Lehman Lenders are making an offer (the ES  
5 Settlement Offer) through the Lehman Plan to Holders of Allowed ES Claims, upon the terms and  
6 conditions more fully discussed in Article 9.8.2, below.

7 **4.6 Alleged Fraud, Breach of Fiduciary Duty and Other Potential Litigation**  
8 **Claims Against the Lehman Lenders.**

9 Article 4.7 of the Elieff Disclosure Statement purports to set forth further claims  
10 against the Project. Lehman Lenders, based upon the Interim Loan Agreement, the Restructuring  
11 Agreement of May 2008, and the foreclosure of Liens against the Pacific Point Project. However,  
12 the narrative contained in Article 4.7 of the Elieff Disclosure Statement does not state any claim for  
13 relief or theory of recovery against the Lehman Lenders based upon the alleged facts and, in reality,  
14 asserts nothing different from the material allegations set forth in the Equitable Subordination  
15 Claims (more fully discussed in Article 4.5 above).

16 **V.**

17 **THE ELIEFF PLAN IS UNCONFIRMABLE**

18 **5.1 The Elieff Plan is Premised Upon an Improper Partial Substantive**  
19 **Consolidation.**

20 The Elieff Plan requires a “partial substantive consolidation” of the Debtors’  
21 bankruptcy estates in order to reallocate from one Debtor to the other Debtors any surplus recovery  
22 on account of the Equitable Subordination Claims against the Lehman Creditors once other  
23 unsecured creditors of the subject Debtor have been paid in full. The concept of “substantive  
24 consolidation,” the form of “partial substantive consolidation” relief upon which the Elieff Plan is  
25 premised and the alleged basis for substantive consolidation of the Debtors are set forth in Article  
26 4.10 of the Elieff Disclosure Statement.

27 As noted above, the fundamental purpose of the partial substantive consolidation  
28 aspects of the Elieff Plan is to redistribute surplus recoveries in one Debtors’ Estate (remaining after

1 payment of all non-Lehman Creditor unsecured Creditors) for the benefit of non-Lehman Lender  
2 Unsecured Creditors of other Debtors' Estates. However, the Elieff Plan Proponents' concept is  
3 misguided, erroneous and cannot be approved by the Court for, *inter alia*, the following reasons:

4 First, the Elieff Plan treats each Debtor as a separate legal entity and treats the Claims  
5 against each Debtor separately, at least until the Maximum Distribution (as defined in the Elieff  
6 Plan) has been reached. The Lehman Creditors contend that, to the extent appropriate, the Lehman  
7 Secured Claims against one Debtor can only be equitably subordinated to junior, unsecured claims  
8 against the same Debtor; once the claimants who are the beneficiaries of the ES Claims in the ES  
9 Action have been paid in full, the Lehman Creditors are entitled to share in the remaining recoveries  
10 of the subject Debtors' Estates. Accordingly, the Lehman Lenders contend that there can never be  
11 an excess recovery as a result of equitable subordination of the Lehman Secured Claims in one  
12 Estate that would lead to the availability of a surplus recovery for redistribution to other Estates.  
13 The Elieff Plan contemplates the redistribution of approximately \$65 million from "surplus" Debtors  
14 to "deficiency" Debtors (Elieff Disclosure Statement, p.128). The Lehman Creditors contend that  
15 under applicable law, none of this redistribution can occur. Accordingly, even if the Debtors prevail  
16 to the maximum extent possible in respect of the Equitable Subordination Claims, creditor recoveries  
17 will not exceed those presented at page 128 of the Elieff Disclosure Statement. In particular,  
18 creditors of SJD Partners and SJD Development will not receive anything under the Elieff Plan and  
19 creditors of Del Rio, an approximately 29.6% recovery.

20 Second, the Lehman Lenders believe that there is no basis for a substantive  
21 consolidation, partial or otherwise, of the Debtors' Estates. The Lehman Lenders contend that the  
22 requirements for substantive consolidation – either a hopeless intermingling of the assets and  
23 liabilities of each of the Debtors or their treatment by creditors as a consolidated group of companies  
24 rather than as individual borrowers – cannot be established based upon the facts of this case.

25 Finally, in reality, what the Elieff Plan Proponents seek to accomplish is not a  
26 substantive consolidation, but instead, an improper end-run around the absolute priority rules of the  
27 Bankruptcy Code, in general, and Bankruptcy Code section 1129, in particular. The Lehman  
28 Lenders contend that there is no basis upon which the Bankruptcy Court can confirm the Elieff Plan



1 in its current form.

## 2 **5.2 Feasibility of Elieff Plan**

3 The Elieff Disclosure Statement estimates that the Allowed Administrative Claims  
4 and Allowed Priority Claims against all of the Debtors total approximately \$6.5 million, all of which  
5 would have to be satisfied on the Effective Date for the Elieff Plan to be confirmed. All, or  
6 substantially all of the Debtors' cash on hand and any proceeds from the sale of certain of the  
7 Lehman Creditors' collateral to D.E. Shaw or another third party comprises the Cash Collateral of  
8 the Lehman Creditors (cash in which the Lehman Creditors have a validly perfected security  
9 interest) and those funds cannot be used to finance the Elieff Plan without the consent of the Lehman  
10 Creditors, which consent the Lehman Creditors will not give. Accordingly, at least \$6.5 million will  
11 need to be provided under the Elieff Plan from other sources for that Plan to become effective.  
12 Although unclear, it appears that Acquisitions (the Plan Sponsor under the Elieff Plan) proposes to  
13 advance no more than approximately \$535,000 to fund confirmation of the Elieff Plan. Elieff  
14 Disclosure Statement, p. 117. Accordingly, it does not appear that the Elieff Plan is feasible or can  
15 be confirmed.

## 16 **5.3 Success of Equitable Subordination Litigation**

17 As noted above, absent success in the ES Action, the Elieff Plan does not provide any  
18 recovery for any general unsecured creditors of any of the Debtors (with the possible exception of  
19 the Holders of Bond Claims, an issue addressed in Section 5.4 below). Elieff Disclosure Statement,  
20 p. 130-131. Accordingly, the Lehman Creditors contend that attempting to confirm the Elieff Plan  
21 before a resolution of the Equitable Subordination Claims is a waste of time and judicial resources,  
22 accomplishes nothing for Creditors and only unfairly benefits its Elieff Plan Proponents.

## 23 **5.4 The D.E. Shaw Sale is for Less than Fair Value, is Unfairly** 24 **Discriminatory in Favor of Bond Claimants and Elieff and Cannot be** 25 **Approved by the Court.**

26 The Elieff Plan Proponents intend to consummate the Elieff Plan by selling certain  
27 Projects (identified at page 78 of the Elieff Disclosure Statement and referred to herein as the "D.E.  
28 Shaw Projects") to D.E. Shaw, a hedge fund manager, for approximately \$125 million plus the

1 assumption of obligations (including Bond Claims) relating to the D.E. Shaw Projects not to exceed  
2 \$25 million. The Lehman Proponents believe that D.E. Shaw is paying significantly less for the  
3 D.E. Shaw Projects than their value and that further, up to \$25 million of the purchase price is being  
4 diverted from the Debtors' Estates to unfairly and improperly provide a more favorable recovery to  
5 the Bond Claimants (and perhaps others) at the expense of other Creditors of the Debtors' Estates.  
6 The Lehman Lenders believe that there is no valid reason for this misallocation of the purchase price  
7 other than to relieve and eliminate Elieff's personal liability under various indemnity agreements in  
8 favor of the Bond Issuers and to prejudice other Creditors. Accordingly, not only is the proposed  
9 D.E. Shaw Sale for less than fair consideration, but it unfairly and improperly provides more  
10 favorable treatment for Claims made by the Bond Issuers at the expense of Holders of other General  
11 Unsecured Claims and the Lehman Creditors. Further, to the extent the primary purpose of the  
12 Elieff Plan is to relieve Elieff of his personal liability with respect to his indemnity relating to the  
13 Bond Claims rather than to provide the best and most favorable outcome for Creditors, to whom the  
14 Debtors and Elieff owe fiduciary duties, the Elieff Plan is being proposed in bad faith (and would be  
15 unconfirmable on that basis).

## 16 **5.5 Unjustified Releases**

17 The Elieff Plan provides broad and general releases to Elieff and his Affiliates in  
18 exchange for a minimal, and perhaps non-existent, contribution to the Elieff Plan (and certainly a  
19 contribution substantially smaller than the one the Lehman Proponents propose). The Elieff  
20 Disclosure Statement provides no disclosure as to the actual or potential claims that are being  
21 released, nor any basis or justification for the granting of the Elieff releases. The Lehman Lenders  
22 contend that the Elieff Plan cannot be confirmed if it contains the Elieff Releases. The Lehman  
23 Lenders further contend that the inclusion of the Elieff releases in the Elieff Plan is further evidence  
24 that the Lehman Plan is not proposed in good faith and, therefore, does not comply with the  
25 confirmation requirements of Bankruptcy Code section 1129(a)(1).

## 26 **5.6 Implications of the Lehman Commercial Bankruptcy.**

27 Lehman Commercial, one of the Lehman Lenders, is itself a debtor and debtor-in-  
28 possession in a bankruptcy proceeding (the "Lehman Commercial Bankruptcy Proceeding") pending

1 before the United States Bankruptcy Court for the Southern District of New York (the “New York  
2 Bankruptcy Court”). Lehman Commercial’s status as a debtor and debtor in possession in its  
3 Lehman Commercial Bankruptcy Proceeding could materially impair both the ability of the Debtors  
4 to prosecute some or all of the claims asserted in the ES Action against it and, even if successfully  
5 asserted, limit the recovery on account of such claims.

## 6 VI.

### 7 **SIGNIFICANT EVENTS IN THE DEBTORS' CHAPTER 11 CASES**

#### 8 **6.1 Voluntary Debtors.**

9 Since the Petition Dates, beginning in November 6, 2008, the seventeen (17)  
10 Voluntary Debtors have continued to operate as a “debtors-in-possession” subject to the supervision  
11 of the Bankruptcy Court. The Voluntary Debtors are authorized to operate their businesses in the  
12 ordinary course during the Chapter 11 proceedings. Transactions outside the ordinary course of  
13 business must be approved by the Bankruptcy Court.

14 The Voluntary Debtors’ Cases are jointly administered with each other pursuant to  
15 orders entered on November 10, 2008 and November 26, 2008. The Voluntary Debtors’ Cases are  
16 being jointly administered with the Trustee Debtors’ Chapter 11 Cases pursuant to an order entered  
17 on March 11, 2009.

18 The Voluntary Debtors have employed Winthrop Couchot Professional Corporation  
19 as their general insolvency counsel, Morgan Lewis & Bockius LLP as their special litigation counsel  
20 for the Southern District of New York and Miller Barondess, LLP as their special litigation counsel.

21 The Voluntary Debtors’ Committee has employed Irell & Manella LLP as its counsel  
22 pursuant to an order entered on February 13, 2009.

#### 23 **6.2 Trustee Debtors.**

24 Orders for Relief were entered in the involuntary cases beginning on January 6, 2009.  
25 The Trustee Debtors are represented by their duly-appointed Chapter 11 trustee, Steven M. Speier,  
26 pursuant to orders of the Bankruptcy Court entered on January 15, 2009.

27 The Trustee has filed an application to employ the Lobel Firm as the Trustee's general  
28 insolvency counsel and Miller Baroness LLP as special litigation counsel.

1                   **6.3    The Debtors' Motion for Relief from Stay in the Lehman Commercial**  
2                   **Chapter 11 Proceedings.**

3                   On November 10, 2008, the Debtors filed a motion for an order modifying the  
4                   automatic stay in the Lehman Commercial Bankruptcy Proceeding to allow the Debtors to  
5                   administer their own Cases to the extent that such Cases, and the relief requested by such Debtors  
6                   therein, may affect the rights of Lehman Commercial. The Debtors also requested the court to allow  
7                   the Debtors to proceed to obtain post-petition debtor-in-possession financing on a priming lien basis  
8                   that would subordinate Lehman Commercial's Claims and Liens arising from the Ritter Ranch Loan  
9                   Agreement and the SunCal Communities I Loan Agreement to those of a proposed debtor-in-  
10                  possession lender. Lehman Commercial opposed the motion on November 18, 2008 and the  
11                  objection was joined by the Lehman Commercial Official Creditors' Committee. The motion was  
12                  denied, without prejudice, by the New York Bankruptcy Court pursuant to an order entered on  
13                  November 21, 2008.

14                  **6.4    Certain of the Voluntary Debtors' Motion for Surcharge and Use of Cash**  
15                  **Collateral.**

16                  On January 16, 2009, seven of the Debtors filed a motion seeking an order  
17                  authorizing Palmdale Hills to use and surcharge, pursuant to 11 U.S.C. § 506(c), and/or use the  
18                  purported cash collateral of Lehman Commercial arising from the Ritter Ranch Loan Agreement,  
19                  pursuant to 11 U.S.C. § 363(c)(2), in order to pay for the reasonable and necessary maintenance  
20                  expenses required to preserve the value of such Debtors' Projects that are subject to deeds of trust  
21                  and other security held by Lehman Commercial.

22                  Lehman Commercial objected to the motion and subsequently filed a motion in the  
23                  New York Bankruptcy Court requesting the New York Bankruptcy Court to enforce its automatic  
24                  stay as to the motion. The motion was taken off calendar prior to any ruling by the New York  
25                  Bankruptcy Court.

26                  **6.5    Lehman Commercial's Motions for Relief from the Automatic Stay**  
27                  **Against Certain of the Voluntary Debtors' Projects.**

28                  On January 23, 2009, Lehman Commercial and Lehman ALI filed in the Bankruptcy

1 Court various motions for relief from the automatic stay against Palmdale Hills, SCC Palmdale,  
2 SunCal Beaumont, SunCal Summit Valley, SunCal Emerald, SunCal Bickford, Acton Estates,  
3 SunCal Johannson, and SCC Communities I (the "Lehman Lenders' Stay Motions") pursuant to  
4 which Lehman Commercial and Lehman ALI sought to foreclose on, *inter alia*, their deeds of trust  
5 encumbering certain of the Debtors' Projects.

6 On February 4, 2009, the Debtors filed an opposition to Lehman Commercial and  
7 Lehman ALI's requests for relief from stay. On February 13, 2009, Lehman Commercial and  
8 Lehman ALI filed a reply to the Debtors' opposition primarily asserting that the ES Action would  
9 violate Lehman Commercial's automatic stay.

10 On March 10, 2009, the Bankruptcy Court entered an order denying the Lehman  
11 Lenders' Stay Motion without prejudice. Lehman Commercial has appealed the Bankruptcy Court's  
12 order.

13 **6.6 The Debtors' Filing of the ES Action Against the Lehman Lenders.**

14 On January 6, 2009, the Voluntary Debtors filed the ES Action against, *inter alia*,  
15 Lehman ALI in the jointly administered cases of the Voluntary Debtors requesting, amongst other  
16 relief, that Lehman ALI's liens be equitably subordinated to the claims of unsecured creditors in all  
17 of the Debtors' Cases. On February 3, 2009, the Debtors filed a first amended complaint adding the  
18 Trustee Debtors as plaintiffs to various causes of action. On March 11, 2009, the Debtors filed a  
19 motion for leave to file a second amended complaint to add Lehman Commercial as a defendant in  
20 the ES Action. On March 24, 2009, the Bankruptcy Court granted this request and deemed the  
21 second amended complaint to be filed. On March 26, 2009, the Lehman Lenders filed an appeal of  
22 the Bankruptcy Court's order.

23 On April 27, 2009, the Lehman Lenders filed a motion to dismiss the second amended  
24 complaint (the "Motion to Dismiss Second Amended Complaint"), alleging, among other things, that  
25 the Debtors' requested relief was not available as a matter of law and that the Debtors were seeking  
26 to circumvent legal restrictions by substantive consolidation. On May 11, 2009, the Debtors filed an  
27 opposition to the Motion to Dismiss Second Amended Complaint, stating that the second amended  
28 complaint is not "premised on" substantive consolidation and states a valid cause of action for

1 equitable subordination of the Claims or Interests of the applicable Lehman Lenders. On May 15,  
2 2009, the Lehman Lenders filed a reply, alleging that the Debtors failed to state their cause of action  
3 with sufficient specificity or detail to establish a claim.

4 As more fully discussed in Section 4.5 above, at a hearing held on June 11, 2009, the  
5 Bankruptcy Court dismissed the second amended complaint with leave to amend. In July, 2009, the  
6 Debtors filed a third amended complaint, adding new causes of action as set forth in Section 4.5  
7 above. The deadline for all defendants to file a responsive pleading to the third amended complaint  
8 is September 30, 2009. The Lehman Lenders intend to move to dismiss the complaint for, among  
9 other things, failure to state a claim on which relief can be granted.

10 **6.7 Certain Debtors' Filing of the Sales Procedures Motion.**

11 On February 18, 2009, the Trustee Debtors and certain Voluntary Debtors filed a motion (the  
12 "Sale Procedures Motion") seeking approval of overbid procedures for a purchase by D.E. Shaw of a  
13 significant portion of the Debtors' assets for \$200 million and its purported assumption of certain  
14 related bond liabilities personally guaranteed by Elieff. Although the Sale Procedures Motion  
15 indicated that D.E. Shaw would assume the bond liabilities as part of its purchase of the properties,  
16 there was no such commitment in D.E. Shaw's commitment letter. The commitment letter provided  
17 that \$175 million of the purchase price would be paid in cash and the remaining \$25 million would  
18 be in the form of an assumption of the Debtors' contractual and other obligations. As part of the  
19 Sale Procedures Motion, the Debtors seeking relief conditioned the sale on the disallowance of the  
20 Lehman Lenders' credit bid rights and the transfer of their Liens to the Debtors.

21 On March 10, 2009, the Bankruptcy Court commenced a hearing on the Sale  
22 Procedures Motion. At that hearing, the Bankruptcy Court held that the automatic stay in the  
23 Lehman Commercial Bankruptcy Proceeding did not apply to the Sales Procedures Motion and  
24 continued the Sales Procedures Motion to March 20, 2009.

25 At the March 20, 2009 hearing, the parties agreed to continue the Sale Procedures  
26 Motion to allow settlement discussions to take place. The Sale Procedures Motion has been  
27 continued from time to time, has been modified to only include the Trustee Debtors' Projects (except  
28 the 10000 Santa Monica Project) and to modify the proposed purchase price. It is presently

1 scheduled to proceed on September 22, 2009.

2 (a) **Lehman Commercial's Stay Assertion and the Sales Procedure**  
3 **Motion.**

4 On March 9, 2009, the Trustee, SCC Communities, Del Rio, and Tesoro filed  
5 emergency motions for an order that the automatic stay in the Lehman Commercial Bankruptcy  
6 Proceeding does not apply to the Sales Procedures Motion.

7 On March 10, 2009, Lehman Commercial, Lehman ALI, Northlake Holdings and  
8 OVC Holdings filed responses to the emergency motions, asserting that Lehman Commercial's  
9 automatic stay prevented the Bankruptcy Court from hearing the Sales Procedures Motion.

10 On March 10, 2009, the Bankruptcy Court held that the automatic stay in the Lehman  
11 Commercial Bankruptcy Case does not apply to the Sales Procedures Motion.

12 (b) **Danske Bank's Intervention into the Sales Procedures Motion.**

13 On March 25, 2009, Danske Bank filed a supplemental response to the Sales  
14 Procedures Motion. Danske Bank's supplemental response asserts various allegations, including the  
15 allegations that Danske Bank has a first-priority deed of trust on the 10000 Santa Monica Project by  
16 the virtue of the SunCal Century City Loan Agreement and related loan documents and that the  
17 Secured Claim and Lien arising from the SunCal Century City Loan Agreement and related loan  
18 documents are not subject to a bona fide dispute because there has been no allegation of wrongdoing  
19 by Danske Bank and that Danske Bank is a holder in due course that effectively cuts off any  
20 defenses to the loan based on the Lehman Lenders' alleged inequitable conduct.

21 On April 1, 2009, the Debtors filed a reply to Danske Bank's supplemental response  
22 asserting that Danske is not a holder in due course and that Danske Bank took the assignment of the  
23 disputed loan subject to all defenses thereto, including the defense of equitable subordination  
24 described below.

25 (c) **Lehman's Disclosure of the Repurchase Agreement Involving**  
26 **Certain Loans with the Debtors.**

27 After the emergence of Danske Bank in connection with the Sales Procedure Motion,  
28 the Debtors demanded that the Lehman Lenders disclose any other loans of the Debtors that were

subject to repurchase agreements. In response, on or about April 15, 2009, the Lehman Lenders provided a letter to the Debtors disclosing the Repurchase Lehman Loans.

**(d) The Modifications to the Sales Procedure Motion.**

The Sales Procedures Motion was thereafter modified to include a purchase of the Assets of only the Trustee Debtors and the D.E. Shaw proposed aggregate purchase price was reduced from \$200 million to \$195 million.

**6.8 The Lehman Administrative Loans.**

**(a) The Stipulation.**

At a hearing on March 20, 2009, the Bankruptcy Court approved a stipulation (the “Financing Stipulation”) among Lehman ALI, Palmdale Hills, SunCal Emerald, SunCal Bickford, Acton Estates, SunCal Oak Valley, SunCal Heartland, SunCal Northlake, SunCal Marblehead, SunCal Century City, SunCal PSV, Delta Coves, and SunCal Oak Knoll, pursuant to which each of the foregoing Debtors was authorized to borrow from Lehman ALI and Lehman ALI agreed to make individual loans in an aggregate amount equal to \$1,790,572 for the purposes of paying the costs and expenses provided in their 30-day budgets and for paying up to \$250,000 of certain professional expenses limited to settlement efforts (the “Lehman Administrative Loans”). The loan proceeds were used to pay for the most urgent and critical public health and safety issues on certain of the Projects. The Financing Stipulation provided Lehman ALI superpriority administrative status in each of the Debtor borrowers’ Estates on account of the Lehman Administrative Loans. The Lehman Administrative Loans also have priming lien status on all of the borrowing Debtors’ Assets with the exception of SunCal Century City in which the Lehman Administrative Loans have junior priority. The following is a breakdown of each Debtors’ loans comprising the Lehman Administrative Loans:

DEBTOR NAME	1-MONTH TOTAL
SunCal Century City	\$ 3,166
Acton Estates	\$37,059
SunCal Beaumont	\$0
SunCal Bickford	\$83,454
SunCal Torrance	\$0
Del Rio	\$0
Delta Coves	\$302,307
SunCal Emerald	\$70,259
SunCal Heartland	\$163,231



Johannson Ranch	\$0
SCC Communities	\$0
Marblehead	\$455,009
SunCal Northlake	\$46,909
SunCal Oak Knoll	\$250,876
Oak Valley	\$249,534
SunCal PSV	\$48,809
Palmdale Hills	\$79,959
SunCal Summit Valley	\$0
Tesoro	\$0
<b>Total</b>	<b>\$1,790,572</b>

**(b) The Rubidoux Objection.**

On April 10, 2009, Rubidoux (defined below) and EMR (defined below) filed an objection to the Lehman Administrative Loans. The basis for the objection was that SunCal Emerald holds title to portions of the Emerald Meadows Project in constructive trust for Rubidoux and EMR and the Financing Stipulation allowed SunCal Emerald to further encumber the SunCal Emerald Meadows Project with superpriority liens, thereby threatening Rubidoux's and EMR's rights to have those portions of the SunCal Emerald Meadows Project returned to them unencumbered, as provided contractually among EMR, Rubidoux and SunCal Emerald. Accordingly, Rubidoux and EMR requested that superpriority liens not attach to a certain portion of the SunCal Emerald Meadows Project. The Lehman Lenders and certain Debtors agreed to modify the Lehman Administrative Loans in this regard.

**6.9 The Contractors' Successful Motions for Relief from Stay to Pursue the Bond Claims.**

Various contractors of the Debtors that were hired to perform work on some of the Projects have filed motions for relief from stay with the Bankruptcy Court to pursue their purported Bond Claims against the Bond Issuers. These creditors have requested the Bankruptcy Court relief from the automatic stay to allow such creditors to enforce certain Claims that such creditors allege to have against some of the Debtors, including rights to payment under certain surety bonds that are alleged to have been issued in favor of such creditors. The Debtors opposed the motions on the grounds that the various Debtors are indispensable parties. The Court conditionally granted the motions provided that the Bond Claimants are able to sever the Debtors from their proceedings on

the surety bonds against the Bond Issuers.

**6.10 The Debtors' Motion Pursuant to Bankruptcy Code Section 506(d).**

On May 29, 2009 and June 9, 2009, the Debtors filed motions seeking orders (i) valuing certain collateral at zero dollars, which allegedly secure certain disputed proofs of claim filed by the Lehman Lenders, pursuant to 11 U.S.C. § 506(a) and Federal Rule of Bankruptcy Procedure 3012 as set forth in the below chart, (ii) voiding the corresponding liens, pursuant to 11 U.S.C. § 506(d), and (iii) preserving such voided liens for the benefit of the respective bankruptcy estates.

<i>Disputed Proof of Secured Claim No.</i>	<i>Debtor</i>	<i>Claim Holder</i>	<i>Alleged Amount</i>	<i>Alleged Collateral</i>
1	SunCal I	Lehman Commercial	\$343,221,391	SunCal I's allowed interest in Acton Estates, SunCal Summit, SunCal Beaumont, SunCal Johannson, SunCal Emerald, and SunCal Bickford.
1	SCC Palmdale	Lehman Commercial	\$119,664,305	SCC Palmdale's allowed interest in Palmdale Hills.
2	SunCal III	Lehman Commercial	\$343,221,391	SunCal III's ownership interest non-existent investment property
17-2	SunCal Bickford	Lehman ALI	\$56,494,059	Second priority deed of trust on the Bickford Ranch Project.

**6.11 The Debtors' Motions to Strike the Claims and Pleadings Arising from the Repurchase Lehman Loans**

On June 9, 2009, the Debtors filed a motion seeking an order striking certain pleadings filed by the Lehman Lenders to the extent that they are premised on the Lehman Lenders' ownership of the Repurchase Lehman Loans and striking any future pleadings filed by the Lehman Lenders that are premised on their ownership of the Repurchase Lehman Loans. As noted in Section 3.6 above, the Bankruptcy Court has ruled that the Lehman Lenders have "sold" the Repurchase Lehman Loans to Fenway Capital (a conclusion that is vigorously contested by the

1 Lehman Lenders) and has set a hearing for September 22, 2009 to determine whether,  
2 notwithstanding the purported “sale” of the Repurchase Lehman Loans, the Lehman Lenders were  
3 authorized to file proofs of claim on account of the Repurchase Lehman Loans as agents for Fenway  
4 Capital.

5 **6.12 The Debtors’ Denied Preliminary Injunction Motion Against the Holders**  
6 **of Bond Claims.**

7 On February 20, 2009, the Debtors filed a complaint and a motion for preliminary  
8 injunction, pursuant to which the Debtors sought a preliminary injunction against the Holders of  
9 Bond Claims from pursuing such Claims.

10 On February 23, 2009, the Bankruptcy Court denied the Debtors’ request for a  
11 temporary restraining order and granted the Debtors’ request to require the defendants thereon to  
12 show cause why the motion for preliminary injunction should not be granted.

13 On March 2, 2009, several Bond Claimants objected to the motion for the preliminary  
14 injunction. The objections generally alleged that the Debtors failed to show that the balancing of the  
15 equities favored granting the preliminary injunction versus the harm to the Bond Claimants.

16 At a hearing held on March 4, 2009, the Court denied the motion for preliminary  
17 injunction and the underlying complaint has subsequently voluntarily been dismissed without  
18 prejudice.

19 **6.13 The Non-Lehman Related Primary Secured Lenders’ Motions for Relief**  
20 **from Stay.**

21 Various secured creditors, including Philip C. Dowse, successor Trustee of the Philip  
22 C. Dowse revocable trust, and Patricia I. Volkerts, as trustee, have filed motions for relief from stay  
23 with respect to portions of the properties owned by Seven Brothers and SunCal Beaumont. Such  
24 secured creditors are not defendants in the ES Action, and the applicable Debtors have not opposed  
25 the requested relief. There are other similarly situated secured parties in the real properties owned by  
26 Seven Brothers, SunCal Beaumont, and SunCal Summit, which may result in foreclosure of such  
27 real property.

28 **6.14 The Rubidoux 60 Litigation.**

1                                    (a)        **Procedural Background.**

2                                    On December 17, 2008, Rubidoux and EMR filed a complaint in the Bankruptcy  
3 Court to remove a prior action (the “Rubidoux Action”) filed with the Superior Court of the State of  
4 California, County of Riverside (the “Superior Court”) to the Bankruptcy Court. The Rubidoux  
5 Action filed with the Superior Court is against SunCal Emerald for breach of contract, breach of  
6 implied covenant of good faith and fair dealings, and declaratory relief.

7                                    On March 10, 2009, SunCal Emerald filed a motion to remand the Rubidoux Action  
8 to the Superior Court on the grounds that (i) the Rubidoux Action raises exclusively issues of state  
9 law and invokes no substantive right created by the Bankruptcy Code; (ii) the Rubidoux Action is a  
10 non-core proceeding and the parties have duly made a demand for a jury trial with the Superior  
11 Court; (iii) SunCal Emerald did not consent to the Bankruptcy Court’s conducting a jury trial of, or  
12 entry of a final order with respect to, the Rubidoux Action; and (iv) SunCal Emerald would suffer  
13 prejudice if the Bankruptcy Court did not remand the Rubidoux Action.

14                                    On April 16, 2009, Rubidoux and EMR filed a first amended complaint with the  
15 Bankruptcy Court and sought to add three additional claims against SunCal Emerald as described  
16 below.

17                                    On April 23, 2009, SunCal Emerald filed an opposition to the filing of the first  
18 amended complaint based on the grounds that Rubidoux and EMR's proposed amendment sought to  
19 (i) address a controversy that did not exist and (ii) prevent a potential outcome that was not possible  
20 under the law. On April 23, 2009, Rubidoux and EMR filed an opposition to SunCal's Emerald's  
21 motion to remand the Rubidoux Action to the Superior Court.

22                                    On May 7, 2009, the Bankruptcy Court granted SunCal Emerald's motion to remand  
23 the Rubidoux Action to the Superior Court. The Rubidoux Action is currently pending before the  
24 Superior Court.

25                                    (b)        **Rubidoux’s Allegations.**

26                                    Rubidoux and EMR make the allegations that (i) certain real property over which  
27 SunCal Emerald holds legal title is actually being held in constructive trust for Rubidoux and EMR,  
28 (ii) said property therefore should not be considered part of SunCal Emerald's bankruptcy estate, and

1 (iii) that certain funds currently held in an escrow account that SunCal Emerald refuses to allow to  
2 be released to Rubidoux and EMR should also not be considered part of SunCal Emerald's  
3 bankruptcy estate because such funds belong to Rubidoux and EMR.

4 According to Rubidoux and EMR, these allegations are based on various prepetition  
5 agreements among EMR, Rubidoux and SunCal Emerald, pursuant to which SunCal Emerald  
6 allegedly holds title to portions of the Emerald Meadows Project in constructive trust for EMR and  
7 Rubidoux. Rubidoux and EMR allege that portions of the Emerald Meadows Project were  
8 temporarily transferred to SunCal Emerald, without any consideration, and that SunCal Emerald is  
9 required to transfer such property back to EMR and Rubidoux when certain parcel maps are  
10 recorded.

11 Rubidoux and EMR also allege that approximately \$500,000 that is currently held in a  
12 certain escrow account by SunCal Emerald should be paid to Rubidoux and EMR.

13 If Rubidoux and EMR are successful in the Rubidoux Action, the SunCal Emerald  
14 Estate will be comprised of less property that could be available to other Holders of Claims against  
15 the SunCal Emerald Estate.

16 **6.15 Church Litigation.**

17 On March 30, 2009, Life Church of God in Christ (the "Church") filed an adversary  
18 complaint (the "Church Litigation") against SunCal Emerald for breach of contract, breach of  
19 implied covenant of good faith and fair dealings and declaratory relief.

20 The Church alleges that SunCal Emerald has not used its best efforts as required by  
21 certain agreements to record various maps to entitle the property owned by SunCal Emerald and  
22 such failure has caused its inability to transfer certain portions of the property owned by SunCal  
23 Emerald to the Church. The Church further alleges that SunCal Emerald is obligated to make certain  
24 improvements to described property but has failed to do so. The Church also alleges that SunCal  
25 Emerald has failed to keep the property free and clear of liens and encumbrances as required by  
26 certain agreements.

27 On April 1, 2009, SunCal Emerald filed its response to the adversary complaint  
28 generally denying various elements of the causes of action asserted against it and asserting various

affirmative defenses.

#### **6.16 Mechanic's Lien Claims.**

Mechanic's Lien claims constitute Claims arising pursuant to California Civil Code §3110 et seq. that were either perfected prepetition or otherwise satisfy the requirements of Bankruptcy Code 546(b). There are approximately \$27 million of asserted Mechanic's Lien claims against various of the Debtors' Projects.

The \$27 million of Mechanic's Lien claims exclude \$275,918 of Mechanic's Lien claims asserted against Del Rio and \$1,996,537 of Mechanic's Lien claims asserted against SJD Partners, neither of which own real property.

#### **6.17 The Debtors' Potential Preferential Transfers.**

The Debtors' Schedules and Statement of Financial Affairs, which are on file with the Bankruptcy Court and available for viewing, provide a list of all payments made to creditors, other than Insiders, for the 90 days preceding the respective Petition Dates, and all payments made to insiders during the one year preceding the respective Petition Dates.

Below is a summary showing the total payments by each Debtor to non-insiders within the 90 days preceding the Petition Date for each Debtor, as disclosed by the Debtors in the Schedules and Statement of Financial Affairs.

<b><u>NAME OF DEBTOR</u></b>	<b><u>AMOUNT TRANSFERRED</u></b>
Acton Estates	\$1,300.00
SunCal Beaumont	\$25,244.97
SunCal Bickford	\$133,669.98
SunCal I	\$0.00
SunCal III	\$0.00
SunCal Emerald	\$128,287.10
SunCal Johansson	\$26,187.00
Kirby Estates	\$0.00
Del Rio	\$86,622.93
SCC Palmdale	\$0.00
Palmdale Hills	\$6,002,491.87
SCC Communities	\$500.00
Seven Brothers	\$0.00
SJD Development	\$25.00
SJD Partners	\$748,926.28
SunCal Summit Valley	\$39,649.77

Tesoro	\$659.00
SunCal Century City	\$190,087.05
Delta Coves	\$597,961.92
SunCal Heartland	\$48,896.50
SunCal Marblehead	\$1,798,895.67
SunCal Northlake	\$833,921.81
SunCal Oak Knoll	\$2,324,630.92
SunCal Oak Valley	\$316,534.90
SunCal PSV	\$446,722.69
SunCal Torrance	<u>\$18,618.50</u>
Total	\$13,769,833.86

Under the Lehman Plan, the Liquidating Trustee is authorized to investigate and pursue potential Avoidance Actions.

Below is a summary showing the total payments by each Debtor to SunCal within one year preceding the Petition Date for each Debtor, as disclosed by the Debtors in the Schedules and Statements of Financial Affairs.

<u>NAME OF DEBTOR</u>	<u>AMOUNT TRANSFERRED</u>	<u>RECIPIENT</u>
Acton Estates	\$7,885.12	SunCal Management
SunCal Beaumont	\$15,602.83	SunCal Management
SunCal Bickford	\$492,802.57	SunCal Management & Acquisitions
SunCal I	\$20,449.52	SunCal Bickford
SunCal III	\$0.00	N/A
SunCal Emerald	\$884,890.80	SunCal Management & Acquisitions
SunCal Johansson	\$8,046.53	SunCal Management & Acquisitions
Kirby Estates	\$500.00	SunCal Management
Del Rio	\$50,721.00	SunCal Management & Acquisitions
SCC Palmdale	\$238,352.34	N/A
Palmdale Hills	\$1,149,348.04	SunCal Management & Acquisitions
SCC Communities	\$0.00	
Seven Brothers	\$0.00	N/A
SJD Development	\$0.00	N/A
SJD Partners	\$498,351.39	SunCal Management
SunCal Summit Valley	\$16,717.60	Acquisitions & SC Master Marketing LLC
Tesoro	\$5,000.00	Acquisitions
SunCal Century City	\$747,727.13	SunCal Management & Acquisitions
Delta Coves	\$2,305,572.58	SunCal Management & Acquisitions
SunCal Heartland	\$282,628.75	SunCal Management; SunCal Marblehead Heartland Master LLC
SunCal Marblehead	\$945,435.28	SunCal Management; Acquisitions; and SunCal Marblehead Heartland Master LLC
SunCal Northlake	\$819,207.14	SunCal Management; Acquisitions; SCC College Park LLC

SunCal Oak Knoll	\$2,914,645.70	SunCal Management and Acquisitions
SunCal Oak Valley	\$87,293.65	SunCal Management and Acquisitions
SunCal PSV	\$4,345.05	SunCal Management; Lehman SunCal Real Estate Fund
SunCal Torrance	<u>\$310,181.43</u>	SunCal Management; Acquisitions; SunCal PSV; and Lehman SunCal Real Estate Holdings
Total	\$11,805,704.45	

The Debtors contend that these payments were made in the ordinary course of the Debtors' business, predominately in the form of management fees. However, as described below, the Lehman Plan preserves the right of the Liquidating Trustee to pursue any valid claims based on these transfers. The Elieff Plan, however, would release all of the foregoing claims against Elieff and any of his related parties.

## VII.

### LEHMAN CREDITORS' PLAN

#### **7.1 Treatment of Unclassified Claims.**

As required by the Bankruptcy Code, the Lehman Plan places Claims and Interests into various Classes according to their right to priority. However, certain types of Claims are not classified in any Classes under the Lehman Plan and the Lehman Proponents have not placed such Claims in a Class. These Claims are "unclassified." As to Allowed Administrative Claims and Allowed Priority Tax Claims, these Claims are not considered impaired, and they do not vote on the Plan because they are automatically entitled to specific treatment provided for them in the Bankruptcy Code. Other unclassified Claims support Liens that have not been avoided, but are not classified to the extent the Claims were not timely Filed. The treatment of these unclassified Claims is as provided below.

#### **7.2 Treatment of Allowed Administrative Claims.**

Except to the extent that the Holder of an Allowed Administrative Claim agrees to a different treatment, and subject to the Administrative Claim Bar Date set forth herein, the Liquidating Trustee shall pay each Allowed Administrative Claim in full, in Cash, on the later of (i) the Effective Date, (ii) within ten (10) Business Days after the date such Administrative Claim becomes an Allowed Administrative Claim, or (iii) the date such Allowed Administrative Claim



1 becomes due according to its terms. Notwithstanding the foregoing, any Allowed Administrative  
2 Claim representing obligations incurred prior to the Effective Date in the ordinary course of post-  
3 petition business by the Plan Debtors (including without limitation post-petition trade obligations  
4 and routine post-petition payroll obligations) shall be paid in full or performed by the Liquidating  
5 Trustee in the ordinary course of business, in accordance with the terms of the particular obligation.

6 (a) **Treatment and Repayment of the Lehman Administrative Loan(s).**

7 The Lehman Administrative Loans are Allowed in the amount loaned or advanced by  
8 Lehman ALI after the commencement of the Cases net of any repayment thereof and shall be paid in  
9 Cash in full on the Effective Date, together with any interest, charges and expenses due thereupon,  
10 or shall be payable at such later time and on such terms more favorable to the Liquidating Trustee to  
11 which Lehman ALI may agree. Pending any such payment or during a period of voluntary deferral  
12 by Lehman ALI, the Lehman Administrative Loans and any interest, charges and expenses due  
13 thereupon shall continue to have a first priority Lien against the respective Assets securing such  
14 loans, including any proceeds thereof deposited in the Plan Reserve or Post-Confirmation Accounts  
15 (with the exception of the Lien for the amounts due under the Lehman Administrative Loan secured  
16 by the 10000 Santa Monica Project, which shall be subordinate to the Secured Claims and Liens  
17 arising from the SunCal Century City Loan Agreement).

18 (b) **Administrative Claim Bar Date.**

19 Any Administrative Claim which is subject to an Administrative Claim Bar Date and not  
20 Filed by the applicable Administrative Claim Bar Date shall be disallowed, and no distribution shall  
21 be made on account of any such Administrative Claim.

22 (i) **General Administrative Claim Bar Date.**

23 All applications for final compensation of Professionals for services rendered and for  
24 reimbursement of expenses incurred on or before the Effective Date and all other requests for  
25 payment of Administrative Claims incurred before the Effective Date under Sections 507(a)(2) or  
26 507(b) of the Bankruptcy Code (except only for (i) post-petition, ordinary course trade obligations  
27 and routine post-petition payroll obligations incurred in the ordinary course of the Plan Debtors'  
28 postpetition business, for which no bar date shall apply, and (ii) post-petition tax obligations, for

1 which the bar date described in the following Section shall apply) shall be Filed with the Bankruptcy  
2 Court and served upon the Liquidating Trustee no later than the General Administrative Claim Bar  
3 Date, unless such date is extended by the Bankruptcy Court after notice to the Liquidating Trustee.  
4 Any such request for payment of an Administrative Claim that is subject to the General  
5 Administrative Claim Bar Date and that is not Filed and served on or before the General  
6 Administrative Claim Bar Date shall be forever barred; any party that seeks payment of  
7 Administrative Claims that is required to File a request for payment of such Administrative Claims  
8 and does not File such a request by the deadline established herein, shall be forever barred from  
9 asserting such Administrative Claims against the Plan Debtors, the Liquidating Trustee, the Plan  
10 Debtors' Estates, or any of their properties.

11 (ii) **Administrative Tax Claim Bar Date.**

12 All requests for payment of Administrative Claims by a governmental unit for Taxes  
13 (and for interest and/or penalties related to such Taxes) for any tax year or period, all or any portion  
14 of which occurs or falls within the period from and including the applicable Petition Date through  
15 and including the Effective Date ("Administrative Tax Claims") and for which no bar date has  
16 otherwise previously been established, must be Filed and served on the Liquidating Trustee on or  
17 before the later of (i) sixty (60) days following the Effective Date; and (ii) 180 days following the  
18 filing of the tax return for such Taxes for such tax year or period with the applicable governmental  
19 unit. Any Holder of an Administrative Tax Claim that is required to File a request for payment of  
20 such Taxes and does not File and properly serve such a request by the applicable bar date shall be  
21 forever barred from asserting any such Administrative Tax Claims against the Plan Debtors,  
22 Liquidating Trustee, Plan Debtors' Estates, or their properties.

23 **7.3 Treatment of Priority Unsecured Tax Claims.**

24 Priority Tax Claims are certain unsecured income, employment and other Taxes  
25 described by Bankruptcy Code Section 507(a)(8) and Claims, as provided in Bankruptcy Code  
26 Section 1129(a)(7)(D) which would otherwise meet such description, but for the secured status of  
27 that Claim. The Bankruptcy Code requires that each Holder of such a Priority Tax Claim receive the  
28 present value of such Claim in deferred cash payments over a period not exceeding five (5) years

1 from the applicable Petition Date and that such treatment not be less favorable than the treatment  
2 accorded to non-priority unsecured creditors.

3 At the election of the Liquidating Trustee, the Holder of each Allowed Priority Tax  
4 Claim shall be entitled to receive, on account of such Claim, (i) equal cash payments on the last  
5 Business Day of each three-month period following the Effective Date, during a period not  
6 exceeding five years after November 6, 2008, totaling the principal amount of such Claim plus  
7 simple interest on any unpaid balance from the Effective Date, calculated at the interest rate  
8 available on ninety (90) day United States Treasuries on the Effective Date, (ii) such other treatment  
9 agreed to by the Holder of the Allowed Priority Tax Claim and the Liquidating Trustee, provided  
10 such treatment is on more favorable terms to the applicable Plan Debtor's Estate than the treatment  
11 set forth in clause (i) hereof, or (iii) payment of the full Allowed Priority Tax Claim in Cash on the  
12 Effective Date.

13 **7.4 Treatment of Unavoided Liens Securing Claims That Are Not Allowed.**

14 Unless the Holder thereof objects and other treatment, consistent with the Bankruptcy  
15 Code, is agreed upon or is permitted upon order of the Bankruptcy Court with respect to such Lien  
16 or Claim, if there is a Lien that cannot be avoided even though the Claim it secures is not Allowed,  
17 then the Lien shall continue in force, be transferred or be released and extinguished on and after the  
18 Effective Date in the same manner and to the same extent as if the Claim were an Allowed Secured  
19 Claim and any such Claim it secures shall be treated on and after the Effective Date as if it were an  
20 Allowed Claim. The Lehman Lenders consent to such treatment.

21 **7.5 Classification Of Claims And Interests.**

22 As required by the Bankruptcy Code, the Lehman Plan places Claims and Interests  
23 into various Classes according to their right to priority and other relative rights. This Plan specifies  
24 whether each Class of Claims or Interests is impaired or unimpaired, and the Lehman Plan sets forth  
25 the treatment each Class will receive. The table below lists the Classes of Claims established under  
26 the Lehman Plan and states whether each particular Class is impaired or left unimpaired by the  
27 Lehman Plan. A Class is "unimpaired" if the Lehman Plan leaves unaltered the legal, equitable and  
28 contractual rights to which the Holders of Claims or Interests in the Class are entitled, with certain

exceptions specified in the Bankruptcy Code.

For voting purposes and to comply with Bankruptcy Code section 1122(a), each Allowed Secured Claim shall be deemed to be in its own subclass even if not expressly designated as such. Further, in the event that any alleged Secured Claim is not, or only is partially, Allowed as a Secured Claim, the deficiency amount will constitute a Class 7 or Class 8 Claim against the applicable Plan Debtor, as appropriate, and will receive the same treatment as provided to other Claims in Class 7 or Class 8 of such Plan Debtor, as appropriate.

THE INVESTIGATION OF CLAIMS AND INTERESTS IS NOT YET COMPLETE, AND THEIR LISTING HEREIN OR IN THE TABLES BELOW SHOULD NOT BE CONSTRUED AS PROVIDING FOR ALLOWANCE UNDER THE PLAN EXCEPT AS EXPRESSLY SET FORTH FOR THE PARTICULAR CLAIM.

CLASS 1: CLASSIFICATION OF ALLOWED SECURED REAL PROPERTY TAX CLAIMS		Class 1 is Unimpaired	Class 1 Claim Holders are Not Entitled to Vote
<u>Class</u>	<u>Claims</u>	<u>Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof Filed and Number)</u>	
Class 1.1	Secured Real Property Tax Claim of Los Angeles County against the Ritter Ranch Project	Palmdale Hills; Palmdale Hills 12	
Class 1.2	Secured Real Property Tax Claim of Los Angeles County against the Acton Project in the amount of \$200	Acton Estates; Acton Estates 1	
Class 1.3	Secured Real Property Tax Claim of Riverside County against the Emerald Meadows Project in the amount of \$284	Emerald Meadows; Emerald Meadows 9	
Class 1.4	Secured Real Property Tax Claim of Placer County against the Bickford Ranch Project	SunCal Bickford; SunCal Bickford Scheduled Amount	
Class 1.5	Secured Real Property Tax Claim of Contra Costa County against the Delta Coves Project in the amount of \$609,221.	Delta Coves; Delta Coves 16	
Class 1.6	Secured Real Property Tax Claim of Riverside County against the Heartland Project in the amount of \$559,022.	SunCal Heartland; SunCal Heartland 5	
Class 1.7	Secured Real Property Tax Claim of Orange County against the Marblehead Project in the amount of \$379,156.	SunCal Marblehead; SunCal Marblehead 49 and 57	

CLASS 1: CLASSIFICATION OF ALLOWED SECURED REAL PROPERTY TAX CLAIMS	Class 1 is Unimpaired	Class 1 Claim Holders are Not Entitled to Vote
Class 1.8	Secured Real Property Tax Claim of Los Angeles County against the Northlake Project in the amount of \$1,189,919.	SunCal Northlake; SunCal Northlake Scheduled Amount
Class 1.9	Secured Real Property Tax Claim of Riverside County against the Oak Valley Project in the amount of \$280,280.	SunCal Oak Valley; SunCal Oak Valley 9
Class 1.10	Secured Real Property Tax Claim of Los Angeles County against the 10000 Santa Monica Project in the amount of \$1,407,212.	SunCal Century City; SunCal Century City 4
Class 1.11	Secured Real Property Tax Claim of San Bernardino County against the Palm Springs Village Project in the amount of \$589,367.	SunCal PSV; SunCal PSV 22
Class 1.12	Secured Real Property Tax Claim (disputed) of Alameda County against the Oak Knoll Project in the amount of \$2,356,035.	SunCal Oak Knoll; SunCal Oak Knoll 22, 23 and 24
Class 1.13	Secured Real Property Tax Claim of Los Angeles County against the Tesoro Project in the amount of \$70,239.	Tesoro; Tesoro 2
Class 1.14	Secured Real Property Tax Claim of San Bernardino County against the Joshua Ridge Project in the amount of \$5,900.	SCC Communities; SCC Communities Scheduled Amount
Class 1.15	Secured Real Property Tax Claim of Placer County against the Summit Valley Project in the amount of \$ 504,245.	SunCal Summit Valley; Palmdale Hills 97
Class 1.16	Secured Real Property Tax Claim of San Bernardino County against the Summit Valley Project in the amount of \$69,530.	SunCal Summit Valley; SunCal Summit Valley Scheduled Amount
Class 1.17	Secured Real Property Tax Claim of Riverside County against the Beaumont Project in the amount of \$365,954.	SunCal Beaumont; SunCal Beaumont 9
Class 1.18	Secured Real Property Tax Claim of Stanislaus County against the Johannson Ranch Project in the amount of \$75,106.	SunCal Johannson; SunCal Johannson Scheduled Amount
Class 1.19	Secured Real Property Tax Claim of San Bernardino County against Seven Brothers' property in the amount of \$60,828.	Seven Brothers; Seven Brothers Scheduled Amount
Class 1.20	Secured Real Property Tax Claim of San Bernardino County against the property Kirby Estates' property in the amount of \$1,744.	Kirby Estates; Kirby Estates Scheduled Amount

CLASS 2: CLASSIFICATION OF LEHMAN SECURED CLAIMS		Class 2 is Impaired	Class 2 Claim Holders are Entitled to Vote
<u>Class</u>	<u>Claims</u>	<u>Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof Filed and Number).</u>	
	<b><u>SunCal Communities I Loan Agreement</u></b>		
Class 2.1	Allowed Secured Claim of Lehman Commercial or its assignee or successor against SunCal I arising from the SunCal Communities I Loan Agreement in the Allowed Amount of \$343,221,391.06.	SunCal I; SunCal I: 1	
Class 2.2	Allowed Secured Claim of Lehman Commercial or its assignee or successor against Acton Estates arising from the SunCal Communities I Loan Agreement in the Allowed Amount of \$343,221,391.06.	Acton Estates; Acton Estates: 6	
Class 2.3	Allowed Secured Claim of Lehman Commercial or its assignee or successor against SunCal Emerald arising from the SunCal Communities I Loan Agreement in the Allowed Amount of \$343,221,391.06.	SunCal Emerald; SunCal Emerald: 7	
Class 2.4	Allowed Secured Claim of Lehman Commercial or its assignee or successor against SunCal Bickford arising from the SunCal Communities I Loan Agreement in the Allowed Amount of \$343,221,391.06.	SunCal Bickford; SunCal Bickford: 16	
Class 2.5	Allowed Secured Claim of Lehman Commercial or its assignee or successor against SunCal Summit Valley arising from SunCal Communities I Loan Agreement in the Allowed Amount of \$343,221,391.06.	SunCal Summit Valley; SunCal Summit Valley: 12	
	<b><u>Ritter Ranch Loan Agreement</u></b>		
Class 2.6	Allowed Secured Claim of Lehman Commercial or its assignee or successor against Palmdale Hills arising from the Ritter Ranch Loan Agreement in the Allowed Amount of \$287,252,096.31.	Palmdale Hills; Palmdale Hills 65	
	<b><u>SCC Palmdale Loan Agreement</u></b>		
Class 2.7	Allowed Secured Claim of Lehman Commercial or its assignee or successor against SCC Palmdale arising from the SCC Palmdale Loan Agreement in the Allowed Amount of \$119,664,305.25.	SCC Palmdale; SCC Palmdale 1	

CLASS 2: CLASSIFICATION OF LEHMAN SECURED CLAIMS	Class 2 is Impaired	Class 2 Claim Holders are Entitled to Vote
<u>Class</u>	<u>Claims</u>	<u>Plan Debtor and Basis for Claim</u> (i.e., Scheduled Amount or Case in Which Proof Filed and Number).
	<b><u>Bickford Second Lien Loan Agreement</u></b>	
Class 2.8	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal Bickford arising from the Bickford Second Loan Agreement in the Allowed Amount of \$56,494,059.38.	SunCal Bickford; SunCal Bickford 17
	<b><u>Interim Loan Agreement</u></b>	
Class 2.9	Allowed Secured Claim of Lehman ALI or its assignee or successor against SCC Communities, arising from the Interim Loan Agreement in the Allowed Amount of \$23,795,012.59.	SCC Communities; SCC Communities: 9
Class 2.10	Allowed Secured Claim of Lehman ALI or its assignee or successor against Del Rio arising from the Interim Loan Agreement in the Allowed Amount of \$23,795,012.59.	Del Rio; Del Rio: 14
Class 2.11	Allowed Secured Claim of Lehman ALI or its assignee or successor against Tesoro rising from the Interim Loan in the Allowed Amount of \$23,795,012.59.	Tesoro; Tesoro: 7
	<b><u>SunCal Oak Knoll/SunCal Torrance Loan Agreement</u></b>	
Class 2.12	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal Oak Knoll arising from the SunCal Oak Knoll/SunCal Torrance Loan Agreement in the Allowed Amount of \$158,141,364.64.	SunCal Oak Knoll; SunCal Oak Knoll: 12
Class 2.13	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal Torrance arising from the SunCal Oak Knoll/SunCal Torrance Agreement in the Allowed Amount of \$157,870,186.15.	SunCal Torrance; SunCal Torrance: 4
	<b><u>Delta Coves Loan Agreement</u></b>	
Class 2.14	Allowed Secured Claim of Lehman ALI or its assignee or successor against Delta Coves arising from the Delta Coves Loan Agreement in the Allowed Amount of \$206,023,142.48.	Delta Coves; Delta Coves 21
	<b><u>SunCal Marblehead / SunCal Heartland Loan Agreement</u></b>	

CLASS 2: CLASSIFICATION OF LEHMAN SECURED CLAIMS		Class 2 is Impaired	Class 2 Claim Holders are Entitled to Vote
<u>Class</u>	<u>Claims</u>	<u>Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof Filed and Number).</u>	
Class 2.15	Allowed Secured Claim of Lehman ALI against SunCal Marblehead arising from the SunCal Marblehead / SunCal Heartland Loan Agreement in the Allowed Amount of \$354,325,126.15.	SunCal Heartland; SunCal Heartland: 9	
Class 2.16	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal Heartland arising from the SunCal Marblehead / SunCal Heartland Loan Agreement in the Allowed Amount of \$354,325,126.15.	SunCal Marblehead; SunCal Marblehead: 21	
	<b><u>SunCal Oak Valley Loan Agreement</u></b>		
Class 2.17	Allowed Secured Claim of OVC Holdings or its assignee or successor against SunCal Oak Valley arising from the SunCal Oak Valley Loan Agreement in the Allowed Amount of \$141,630,091.63.	SunCal Oak Valley; SunCal Oak Valley 16	
	<b><u>SunCal Northlake Loan Agreement</u></b>		
Class 2.18	Allowed Secured Claim of Northlake Holdings or its assignee or successor against SunCal Northlake arising from the Northlake Loan Agreement in the Allowed Amount of \$123,654,776.88.	SunCal Northlake; SunCal Northlake 6	
	<b><u>SunCal PSV Loan Agreement</u></b>		
Class 2.19	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal PSV arising from the SunCal PSV Loan Agreement in the Allowed Amount of \$88,257,340.20.	SunCal PSV; SunCal PSV 12	

CLASS 3: CLASSIFICATION OF ALLOWED DANSKE SECURED CLAIM		Class 3 is Impaired	The Class 3 Claim Holder is Entitled to Vote
<u>Class</u>	<u>Claims</u>	<u>Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof Filed and Number).</u>	
Class 3.1	Secured Claim of Danske Bank against SunCal Century City arising from the SunCal Century City Loan Agreement, in the Allowed Amount of \$120,000,000 .	SunCal Century; City SunCal Century City 17	



CLASS 4: CLASSIFICATION OF ALLOWED OTHER SECURED CLAIMS	Class 4 is Unimpaired	Class 4 Claim Holders are Not Entitled to Vote
Class	Claims	Plan Debtor and Basis for Claim ( <i>i.e.</i> , Scheduled Amount or Case in Which Proof of Claim Filed and Number)
Class 4.1	Secured Claim of, or formerly of, Yen Chu Chang Dou, et al. pursuant to first-priority deed of trust against certain portions of the Beaumont Heights Project in the amount of \$3,173,499.50.	SunCal Beaumont; SunCal Beaumont 3
Class 4.2	Secured Claim of, or formerly of, Cheryl M. Mims pursuant to a first-priority deed of trust against certain portions of the Beaumont Heights Project in the amount of \$136,229.	SunCal Beaumont; Palmdale Hills 101
Class 4.3	Secured Claim of, or formerly of, William L & Kathleen Ward pursuant to a first-priority deed of trust against certain portions of the Beaumont Heights Project in the amount of \$130,000.	SunCal Beaumont; SunCal Beaumont [__]
Class 4.4	Secured Claim of, or formerly of, Scott McDaniel pursuant to a first-priority deed of trust against certain portions of Beaumont Heights Project in the amount of \$535,000.	SunCal Beaumont; Palmdale Hills 20
Class 4.5	Secured Claim of, or formerly of, Wayne & Francis Lee pursuant to a first-priority deed of trust against certain portions of the Beaumont Heights Project in the amount of \$650,000.	SunCal Beaumont; SunCal Beaumont [__]
Class 4.6	Secured Claim of, or formerly of, Marie B. Stanford pursuant to a first-priority deed of trust against certain portions of Beaumont Heights Project in the amount of \$154,742.	SunCal Beaumont; SunCal Beaumont 6
Class 4.7	Secured Claim of, or formerly of, Patricia I Volkerts pursuant to a first-priority deed of trust against certain portions of Beaumont Heights Project in the amount of \$871,703.	SunCal Beaumont; Palmdale Hills 11
Class 4.8	Secured Claim of, or formerly of, Arleen Logan pursuant to a first-priority deed of trust against certain portions of the Summit Valley Project in the amount of \$668,250.	SunCal Summit Valley; SunCal Summit Valley 5
Class 4.9	Secured Claim of, or formerly of, K Square pursuant to a first-priority deed of trust Properties Inc. against certain portions of the Summit Valley Project in the amount of \$200,000.	SunCal Summit Valley; SunCal Summit Valley [__]
Class 4.10	Secured Claim of, or formerly of, Leslie Quigg & Betty Quigg pursuant to a first-priority deed of trust against certain portions of the Summit Valley Project in the amount of \$1,246,500.	SunCal Summit Valley; SunCal Summit Valley [__]

CLASS 4: CLASSIFICATION OF ALLOWED OTHER SECURED CLAIMS		Class 4 is Unimpaired	Class 4 Claim Holders are Not Entitled to Vote
Class	Claims	Plan Debtor and Basis for Claim ( <i>i.e.</i> , Scheduled Amount or Case in Which Proof of Claim Filed and Number)	
Class 4.11	Secured Claim of, or formerly of, Jerry Wong Scheduled Amount & Rosalie Wong, Inc. pursuant to a first-priority deed of trust against certain portions of the Summit Valley Project in the amount of \$390,000.	SunCal Summit Valley; SunCal Summit Valley [__]	
Class 4.12	Secured Claim of, or formerly of, Cheltimalie Enterprises pursuant to a first-priority deed of trust against certain portions of the Summit Valley Project owned by Seven Brothers in the amount of \$1,388,156.	Seven Brothers; SunCal Summit 17	
Class 4.13	Secured Claim of, or formerly of, Philip C. Dowse and Vera G. Dowse pursuant to a first-priority deed of trust against certain portions of the Summit Valley Project owned by Seven Brothers in the amount of \$296,910.	Seven Brothers; Seven Brothers [__]	
Class 4.14	Secured Claim of, or formerly of, Philip C. Dowse pursuant to a first-priority deed of trust against certain portions of the Summit Valley Project owned by Seven Brothers in the amount of \$880,000.	Seven Brothers; Seven Brothers [__]	
Class 4.15	Secured Claim of, or formerly of, Desert Wind, LLC pursuant to a first -priority deed of trust against certain portions of the Summit Valley Project owned by Seven Brothers in the amount of \$862,000.	Seven Brothers; Seven Brothers [__]	
CLASS 5: CLASSIFICATION OF ALLOWED MECHANIC’S LIEN CLAIMS		Class 5 is Unimpaired	Class 5 Claim Holders are Not Entitled to Vote
Class	Claims	Plan Debtor and Basis for Claim ( <i>i.e.</i> , Scheduled Amount or Case in Which Proof Filed and Number)	

CLASS 5: CLASSIFICATION OF ALLOWED MECHANIC'S LIEN CLAIMS	Class 5 is Unimpaired	Class 5 Claim Holders are Not Entitled to Vote
Class	Claims	<u>Plan Debtor and Basis for Claim</u> (i.e., Scheduled Amount or Case in Which Proof Filed and Number)
Class 5.1	Mechanic's Lien Claim of Asphalt Professionals or its assignee or successor against the Ritter Ranch Project owned by Palmdale Hills in the amount of \$38,249.	Palmdale Hills; Palmdale Hills 1 and 46
Class 5.2	Mechanic's Lien Claim of Sierra Cascade Construction or its assignee or successor against the Ritter Ranch Project owned by Palmdale Hills in the amount of \$550,677.	Palmdale Hills; Palmdale Hills 33
Class 5.3	Mechanic's Lien Claim of Staats Construction, Inc. or its assignee or successor against the Ritter Ranch Project owned by Palmdale Hills in the amount of \$166,105.	Palmdale Hills; Palmdale Hills 51
Class 5.4	Mechanic's Lien Claim of Southland Farmers, Inc. or its assignee or successor against the Ritter Ranch Project owned by Palmdale Hills in the amount of \$177,801.	Palmdale Hills; Palmdale Hills 55, 67 and 68
Class 5.5	Mechanic's Lien Claim of Pinnick, Inc. or its assignee or successor against the Ritter Ranch Project owned by Palmdale Hills in the amount of \$1,530,146.	Palmdale Hills; Palmdale Hills 62, 63 and 64
Class 5.6	Mechanic's Lien Claim of Chameleon Design Inc. or its assignee or successor against the Ritter Ranch Project owned by Palmdale Hills in the amount of \$73,600.	Palmdale Hills; Palmdale Hills 93, 99
Class 5.7	Mechanic's Lien Claim of Hall & Foreman, Inc. or its assignee or successor against the Emerald Meadows Project in the amount of \$287,727.	SunCal Emerald; SunCal Emerald 13
Class 5.8	Mechanic's Lien Claim of Proactive Engineering or its assignee or successor against the Emerald Meadows Project in the amount of \$991,315.	SunCal Emerald; SunCal Emerald 15 and 16
Class 5.9	Mechanic's Lien Claim of HD Supply Construction or its assignee or successor against the Ritter Ranch Project owned by Palmdale Hills in the amount of \$14,893.	Palmdale Hills; Palmdale Hills 15
Class 5.10	Mechanic's Lien Claim of MHM Engineers or its assignee or successor against the Bickford Ranch Project in the amount of \$8,916.	SunCal Bickford; SunCal Bickford 5
Class 5.11	Mechanic's Lien Claim of Land Architecture or its assignee or successor against the Bickford Ranch Project in the amount of \$100,245.	SunCal Bickford; SunCal Bickford 6

CLASS 5: CLASSIFICATION OF ALLOWED MECHANIC'S LIEN CLAIMS	Class 5 is Unimpaired	Class 5 Claim Holders are Not Entitled to Vote
Class	Claims	<u>Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof Filed and Number)</u>
Class 5.12	Mechanic's Lien Claim of Kiewit Pacific Co. or its assignee or successor against the Bickford Ranch Project in the amount of \$1,868,357.	SunCal Bickford; SunCal Bickford 10
Class 5.13	Mechanic's Lien Claim of ARB, Inc. or its assignee or successor against the Bickford Ranch Project in the amount of \$1,052,272.	SunCal Bickford; SunCal Bickford 15
Class 5.14	Mechanic's Lien Claim of Independent Construction or its assignee or successor against the Bickford Ranch Project in the amount of \$117,209.	SunCal Bickford; SunCal Bickford 28
Class 5.15	Mechanic's Lien Claim of Marques Pipeline, Inc. or its assignee or successor against the Bickford Ranch Project in the amount of \$330,118.	SunCal Bickford; SunCal Bickford 29 and 30
Class 5.16	Mechanic's Lien Claim of Pacific Soils Engineering or its assignee or successor against the portion of the Summit Valley Project owned by Summit Valley in the amount of \$16,827.	SunCal Summit Valley; SunCal Summit Valley 9
Class 5.17	Mechanic's Lien Class of, or formerly of, Hertz Equipment Rental Corporation or its assignee or successor against the Delta Coves Project in the amount of \$25,444.	Delta Coves; Delta Coves 2
Class 5.18	Mechanic's Lien Claim of MBH Architects or its assignee or successor against the Delta Coves Project in the amount of \$97,091.	Delta Coves; Delta Coves 8
Class 5.19	Mechanic's Lien Claim of HD Supply Construction or its assignee or successor against the Heartland Project in the amount of \$47,675.	SunCal Heartland; SunCal Heartland 2
Class 5.20	Mechanic's Lien Claim of Pinnick, Inc. or its assignee or successor against the Heartland Project in the amount of \$563,159.	SunCal Heartland; SunCal Heartland 8
Class 5.21	Mechanic's Lien Claim of Dennis M. McCoy & Sons or its assignee or successor against the Heartland Project in the amount of \$941,960.	SunCal Heartland; SunCal Heartland 16
Class 5.22	Mechanic's Lien Claim of SunCal Marblehead by Trimax Systems, Inc. or its assignee or successor against the Marblehead Project in the amount of \$75,286.	SunCal Marblehead; SunCal Marblehead 3
Class 5.23	Mechanic's Lien Claim of Butsko Utility Design, Inc. or its assignee or successor against the Marblehead Project in the amount of \$6,250.	SunCal Marblehead; SunCal Marblehead 4

CLASS 5: CLASSIFICATION OF ALLOWED MECHANIC'S LIEN CLAIMS	Class 5 is Unimpaired	Class 5 Claim Holders are Not Entitled to Vote
Class	Claims	<u>Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof Filed and Number)</u>
Class 5.24	Mechanic's Lien Claim of Dennis RMF Contracting, Inc. or its assignee or successor against the Marblehead Project in the amount of \$264,749.	SunCal Marblehead; SunCal Marblehead 28
Class 5.25	Mechanic's Lien Claim of The Jasper Companies or its assignee or successor against the Marblehead Project in the amount of \$165,260.	SunCal Marblehead; SunCal Marblehead 29
Class 5.26	Mechanic's Lien Claim of Kirk Negrete, Inc. dba United Steel Placers or its assignee or successor against the Marblehead Project in the amount of \$270,056.	SunCal Marblehead; SunCal Marblehead 38
Class 5.27	Mechanic's Lien Claim of RBF Consulting or its assignee or successor against the Marblehead Project in the amount of \$7,096.	SunCal Marblehead; SunCal Marblehead 39
Class 5.28	Mechanic's Lien Claim of RJ Noble Co. or its assignee or successor against the Marblehead Project in the amount of \$175,030.	SunCal Marblehead; SunCal Marblehead 42, 50 and 58
Class 5.29	Mechanic's Lien Claim of Orange County Stripping Services or its assignee or successor against the Marblehead Project in the amount of \$4,400.	SunCal Marblehead; SunCal Marblehead 46 and 54
Class 5.30	Mechanic's Lien Claim of Savala Equipment Co. Inc. or its assignee or successor against the Marblehead Project in the amount of \$34,440.\	SunCal Marblehead; SunCal Marblehead 48 and 56
Class 5.31	Mechanic's Lien Claim of Rockey Murata Landscaping or its assignee or successor against the Marblehead Project in the amount of \$285,643.	SunCal Marblehead; SunCal Marblehead 60
Class 5.32	Mechanic's Lien Claim of HD Supply Construction or its assignee or successor against the Oak Valley Project in the amount of \$52,806.	SunCal Oak Valley; SunCal Oak Valley 3
Class 5.33	Mechanic's Lien Claim of Pinnik Inc. or its assignee or successor against the Oak Valley Project in the amount of \$966,987.	SunCal Oak Valley; SunCal Oak Valley 12 and 14
Class 5.34	Mechanic's Lien Claim of Hillcrest Contracting Inc. or its assignee or successor against the Oak Valley Project in the amount of \$136,567.	SunCal Oak Valley; SunCal Oak Valley 223
Class 5.35	Mechanic's Lien Claim of MacKenzie Landscape or its assignee or successor against the Oak Valley Project in the amount of \$121,297.	SunCal Oak Valley; SunCal Oak Valley 25
Class 5.36	Mechanic's Lien Claim of All American Asphalt or its assignee or successor against the Oak Valley Project in the amount of \$60,355.	SunCal Oak Valley; SunCal Oak Valley 26

CLASS 5: CLASSIFICATION OF ALLOWED MECHANIC'S LIEN CLAIMS	Class 5 is Unimpaired	Class 5 Claim Holders are Not Entitled to Vote
Class	Claims	<u>Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof Filed and Number)</u>
Class 5.37	Mechanic's Lien Claim of Los Angeles Times or its assignee or successor against the Oak Valley Project in the amount of \$43,610.	SunCal Oak Valley; SunCal Oak Valley 31 and 32
Class 5.38	Mechanic's Lien Claim of Proactive Engineering or its assignee or successor against the Oak Valley Project in the amount of \$280,685.	SunCal Oak Valley; SunCal Oak Valley 35 and 36
Class 5.39	Mechanic's Lien Claim of Ateliers Jean Nouvel or its assignee or successor against the 10000 Santa Monica Project in the amount of \$1,110,000.	SunCal Century City; SunCal Century City 15
Class 5.40	Mechanic's Lien Claim of Englekirk & Sabol Construction Structure Engineering or its assignee or successor against the 10000 Santa Monica Project in the amount of \$324,520.	SunCal Century City SunCal Century City 12
Class 5.41	Mechanic's Lien Claim of Brudvik Inc. or its assignee or successor against the Palm Springs Village Project in the amount of \$43,365.	SunCal PSV; SunCal PSV 4
Class 5.42	Mechanic's Lien Claim of Larry Jacinto Construction Inc. or its assignee or successor against the Palm Springs Village Project in the amount of \$212,663.	SunCal PSV; SunCal PSV 5 and 24
Class 5.43	Mechanic's Lien Claim of William + Paddon Architects + Planners Inc. or its assignee or successor against the Palm Springs Village Project in the amount of \$73,798.	SunCal PSV; SunCal PSV 9 and 10
Class 5.44	Mechanic's Lien Claim of Southern California Edison or its assignee or successor against the Palm Springs Village Project in the amount of \$23,861.	SunCal PSV; SunCal PSV 26
Class 5.45	Mechanic's Lien Claim of Pacific Masonry Walls, Inc. or its assignee or successor against the Palm Springs Village Project in the amount of \$314,061.	SunCal PSV; SunCal PSV 33 and 39
Class 5.46	Mechanic's Lien Claim of J.R. Simplot Company or its assignee or successor against the Palm Springs Village Project in the amount of \$3,467.	SunCal PSV; SunCal PSV 34 and 40
Class 5.47	Mechanic's Lien Claim of Desert Pipeline Inc. or its assignee or successor against the Palm Springs Village Project in the amount of \$469,784.	SunCal PSV; SunCal PSV 36, 42 and 47
Class 5.48	Mechanic's Lien Claim of MSA Consulting or its assignee or successor against the Palm Springs Village Project in the amount of \$666,897.	SunCal PSV; SunCal PSV 43
Class 5.49	Mechanic's Lien Claim of Jackson DeMarco or its assignee or successor against the Palm Springs Village Project in the amount of \$52,234.	SunCal PSV; SunCal PSV 45

CLASS 5: CLASSIFICATION OF ALLOWED MECHANIC’S LIEN CLAIMS		Class 5 is Unimpaired	Class 5 Claim Holders are Not Entitled to Vote
Class	Claims	Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof Filed and Number)	
Class 5.50	Mechanic’s Lien Claim of Oliphant Gold, Inc. or its assignee or successor against the Oak Knoll Project in the amount of \$456,476.	SunCal Oak Knoll; SunCal Oak Knoll 46	
Class 5.51	Mechanic’s Lien Claim of RGA Environmental, Inc. or its assignee or successor against the Oak Knoll Project in the amount of \$75,617.	SunCal Oak Knoll; SunCal Oak Knoll 1	
Class 5.52	Mechanic’s Lien Claim of BKF Engineers or its assignee or successor against the Oak Knoll Project in the amount of \$308,817.	SunCal Oak Knoll; SunCal Oak Knoll 2 and 19	
Class 5.53	Mechanic’s Lien Claim of CST Environmental Inc. or its assignee or successor against the Oak Knoll Project in the amount of \$4,316,169.	SunCal Oak Knoll; SunCal Oak Knoll 4 and 9	
Class 5.54	Mechanic’s Lien Claim of Proactive Engineering or its assignee or successor against the Beaumont Heights Project in the amount of \$46,188.	SunCal Beaumont; SunCal Beaumont 11 and 12	
CLASS 6: CLASSIFICATION OF ALLOWED PRIORITY CLAIMS		Class 6 is Unimpaired	Class 6 Claim Holders are Not Entitled to Vote
Class	Claims	Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof Filed and Number)	
Class 6.1	Priority Claims against SunCal Marblehead (alleged amount - \$10,950).	SunCal Marblehead; SunCal Marblehead Scheduled Amount and SunCal Marblehead 45	
Class 6.2	Priority Claims against SunCal Oak Knoll (alleged amount - \$235).	SunCal Oak Knoll; SunCal Oak Knoll 26	
Class 6.3	Priority Claims against Palmdale Hills (alleged amount - \$10,950).	Palmdale Hills; Palmdale Hills 70	
Class 6.4	Priority Claims against SJD Partners (alleged amount - \$4,188).	SJD Partners; SJD Partners Scheduled Amount and SJD Partners 12	
CLASS 7: CLASSIFICATION OF ALLOWED GENERAL UNSECURED CLAIMS		Class 7 is Impaired	Class 7 Claim Holders are Entitled to Vote
Class	Claims	Plan Debtor	
Class 7.1	General Unsecured Claims	Palmdale Hills	

CLASS 7: CLASSIFICATION OF ALLOWED GENERAL UNSECURED CLAIMS		Class 7 is Impaired	Class 7 Claim Holders are Entitled to Vote
Class	Claims		Plan Debtor
Class 7.2	General Unsecured Claims		Del Rio
Class 7.3	General Unsecured Claims		SunCal Beaumont
Class 7.4	General Unsecured Claims		SunCal Emerald
Class 7.5	General Unsecured Claims		SunCal Johansson
Class 7.6	General Unsecured Claims		SunCal Summit Valley
Class 7.7	General Unsecured Claims		Acton Estates
Class 7.8	General Unsecured Claims		Delta Coves
Class 7.9	General Unsecured Claims		SunCal Heartland
Class 7.10	General Unsecured Claims		SunCal Marblehead
Class 7.11	General Unsecured Claims		SJD Partners
Class 7.12	General Unsecured Claims		SunCal Century City
Class 7.13	General Unsecured Claims		SunCal Northlake
Class 7.14	General Unsecured Claims		SunCal Oak Knoll
Class 7.15	General Unsecured Claims		SunCal Oak Valley
Class 7.16	General Unsecured Claims		SunCal PSV
Class 7.17	General Unsecured Claims		SunCal Torrance
Class 7.18	General Unsecured Claims		SCC Communities
Class 7.19	General Unsecured Claims		Tesoro
Class 7.20	General Unsecured Claims		SunCal Bickford
Class 7.21	General Unsecured Claims		SunCal I
Class 7.22	General Unsecured Claims		Seven Brothers
Class 7.23	General Unsecured Claims		Kirby Estates
Class 7.24	General Unsecured Claims		SCC Palmdale



CLASS 8: CLASSIFICATION OF ALLOWED ES CLAIMS	Class 8 is Impaired	Class 8 Claim Holders are Entitled to Vote
Class	Claims	<u>Plan Debtor and Basis for Claims</u>
Class 8.1	ES Claims	Palmdale Hills
Class 8.2	ES Claims	Del Rio - Various Filed and Scheduled
Class 8.3	ES Claims	SunCal Emerald - Various Filed and Scheduled
Class 8.4	ES Claims	SunCal Summit Valley - Various Filed and Scheduled
Class 8.5	ES Claims	Acton Estates - Various Filed and Scheduled
Class 8.6	ES Claims	Delta Coves - Various Filed and Scheduled
Class 8.7	ES Claims	SunCal Heartland - Various Filed and Scheduled
Class 8.8	ES Claims	SunCal Marblehead - Various Filed and Scheduled
Class 8.9	ES Claims	SJD Partners - Various Filed and Scheduled
Class 8.10	ES Claims	SunCal Northlake - Various Filed and Scheduled
Class 8.11	ES Claims	SunCal Oak Knoll - Various Filed and Scheduled
Class 8.12	ES Claims	SunCal Oak Valley - Various Filed and Scheduled
Class 8.13	ES Claims	SunCal PSV - Various Filed and Scheduled
Class 8.14	ES Claims	SunCal Torrance - Various Filed and Scheduled
Class 8.15	ES Claims	SCC Communities - Various Filed and Scheduled
Class 8.16	ES Claims	Tesoro - Various Filed and Scheduled
Class 8.17	ES Claims	SunCal Bickford - Various Filed and Scheduled
Class 8.18	ES Claims	SunCal I
Class 8.19	ES Claims	SCC Palmdale

CLASS 9: CLASSIFICATION OF ALLOWED INTERESTS	Class 9 is Impaired	Class 9 Interest Holders are Deemed to Reject the Plan and are Not Entitled to Vote	
Class	Interests (and alleged Holders)		<u>Plan Debtor and Basis for Interests</u>
Class 9.1	Interests in Palmdale Hills (of SCC Palmdale).		Palmdale Hills Scheduled
Class 9.2	Interests in Del Rio (of SCC LLC).		Del Rio Scheduled
Class 9.3	Interests in SunCal Beaumont (of SunCal I).		SunCal Beaumont Scheduled
Class 9.4	Interests in SunCal Emerald (of SunCal I).		SunCal Emerald Scheduled
Class 9.5	Interests in SunCal Johannson (of SunCal I).		SunCal Johannson Scheduled
Class 9.6	Interests in SunCal Summit Valley (of SunCal I).		SunCal Summit Valley Scheduled
Class 9.7	Interests in Acton Estates (of SunCal I).		Acton Estates Scheduled
Class 9.8	Interests in Delta Coves (of Delta Coves Member LLC).		Delta Coves Scheduled
Class 9.9	Interests in SunCal Heartland (of SunCal Marblehead Heartland Master LLC).		SunCal Heartland Scheduled
Class 9.10	Interests in SunCal Marblehead (of SunCal Marblehead Heartland Master LLC).		SunCal Marblehead Scheduled
Class 9.11	Interests in SJD Partners (of, <i>inter alia</i> , SJD Development).		SJD Partners Scheduled
Class 9.12	Interests in SunCal Century City (of SunCal Century City Member LLC).		SunCal Century City Scheduled
Class 9.13	Interests in SunCal Northlake (of SCLV Northlake, LLC and SCC/Northlake, LLC).		SunCal Northlake Scheduled
Class 9.14	Interests in SunCal Oak Knoll (of Lehman SunCal Real Estate Holdings LLC).		SunCal Oak Knoll Scheduled
Class 9.15	Interests in SunCal Oak Valley (of SCLV Oak Valley LLC and SCC/Oak Valley, LLC).		SunCal Oak Valley Scheduled
Class 9.16	Interests in SunCal PSV (of Lehman SunCal PSV Holdings LLC).		SunCal PSV Scheduled

CLASS 9: CLASSIFICATION OF ALLOWED INTERESTS	Class 9 is Impaired	Class 9 Interest Holders are Deemed to Reject the Plan and are Not Entitled to Vote
Class	Interests (and alleged Holders)	<u>Plan Debtor and Basis for Interests</u>
Class 9.17	Interests in SunCal Torrance (of Lehman SunCal Real Estate Holdings LLC).	SunCal Torrance Scheduled
Class 9.18	Interests in SCC Communities (of SCC LLC).	SCC Communities Scheduled
Class 9.19	Interests in Tesoro (of SCC LLC).	Tesoro Scheduled
Class 9.20	Interests in SunCal Bickford (of SunCal I).	SunCal Bickford Scheduled
Class 9.21	Interests in SunCal I (of SCC LLC).	SunCal I Scheduled
Class 9.22	Interests in Seven Brothers (of SunCal Summit Valley).	Seven Brothers Scheduled
Class 9.23	Interests in Kirby Estates (of SunCal Summit Valley).	Kirby Estates Scheduled
Class 9.24	Interests in SCC Palmdale (of SCC LLC).	SCC Palmdale Scheduled

## 7.6 Treatment Of Classified Claims And Interests

Any references in the Lehman Plan to Class 1, Class 2, Class 4, Class 5, Class 6, Class 7, Class 8 and Class 9 are summary references made for convenience only to the group of subclasses of each such Class (Classes 1.1 through 1.20, Classes 2.1 through 2.19, Classes 4.1 through 4.15, Classes 5.1 through 5.54, Classes 6.1 through 6.4, Classes 7.1 through 7.24, Classes 8.1 through 8.19 and Classes 9.1 through 9.24). Regardless of the treatment provided herein for any Holder of a Claim, the Holder may agree to accept less favorable treatment. Provisions for treatment below for Holders of Allowed Claims are not an indication that any particular Claim is Allowed unless expressly provided.

### 7.6.1 Treatment of Allowed Secured Real Property Tax Claims (Classes 1.1 through 1.20).

The treatment of Allowed Secured Real Property Tax Claims in Classes 1.1 through 1.20 under the Lehman Plan is as follows:

- (a) Classes 1.1 through 1.20 are unimpaired under the Plan, and each Holder of an

1 Allowed Secured Real Property Tax Claim is not entitled to vote on the Plan;

2 (b) As of the Effective Date, each Holder of an Allowed Secured Real Property  
3 Tax Claim shall retain its underlying Liens on the applicable real property collateral;

4 (c) On or before the Effective Date, the Lehman Lenders, in consultation with the  
5 Committees and the anticipated Liquidating Trustee, as limited below, shall select, and the  
6 Liquidating Trustee shall implement, as necessary, unless the Holder of an Allowed Secured Real  
7 Property Tax Claim agrees to less favorable treatment, one of the following alternative treatments  
8 for each such Allowed Secured Real Property Tax Claim, which treatment shall be in full and final  
9 satisfaction, settlement, release, and discharge of, and exchange for each such Allowed Secured Real  
10 Property Tax Claim:

11 (1) **Cash Payment.** On the Effective Date, the Liquidating  
12 Trustee (with the consent of the Lehman Lenders to the extent that payment would require utilization  
13 of Cash Collateral of any of the Lehman Creditors, which consent may be granted or denied in their  
14 sole discretion) will pay, to the Holder of such Allowed Secured Real Property Tax Claim, Cash  
15 equal to the amount of such Allowed Secured Real Property Tax Claim, or such lesser amount as to  
16 which the Holder of such Allowed Secured Real Property Tax Claim, the Liquidating Trustee and  
17 the Lehman Lenders agree; or

18 (2) **Unimpairment.** (i) As of the Effective Date, the  
19 Holder of such Allowed Secured Real Property Tax Claim shall have left unaltered its legal,  
20 equitable and contractual rights as a Holder of such Allowed Secured Real Property Tax Claim and  
21 shall be free to pursue its rights and remedies against the underlying real property collateral under  
22 applicable nonbankruptcy law; and (ii) the Liquidating Trustee shall File with the Bankruptcy Court  
23 and serve on the Holder notice of the selection of this alternative treatment for such Holder.

24 **7.6.2 Treatment of Secured Claims with Respect to Lehman Loans (Classes 2.1**  
25 **through 2.20).**

26 The treatment of Lehman Secured Claims (Classes 2.1 through 2.19) under the  
27 Lehman Plan shall be as follows:  
28

1 (a) **Voting.**

2 Classes 2.1 through 2.19 are impaired under the Plan, and each Holder of a Lehman  
3 Secured Claim is entitled to vote on the Plan.

4 (b) **Liens.**

5 As of the Effective Date, each Holder of a Lehman Secured Claim shall retain its  
6 underlying Liens on the applicable collateral. Thereafter, additional Liens may be granted or Liens  
7 may be released all as set forth in Section 7.6.2 and Article IX of the Plan.

8 (c) **Claims.**

9 Subject to applicable provisions of the Lehman Plan, including Article IX of the Plan  
10 (which provisions are designed to protect (a) ES Claimants as provided therein in the event of an ES  
11 Judgment subordinating all or any part of certain Lehman Secured Claims to Allowed ES Claims  
12 and (b) the Estates of Acton Estates, Tesoro and SCC Communities in the event of a Cross-  
13 Collateralization Judgment), each Lehman Secured Claim shall be Allowed for voting and all other  
14 purposes as a Secured Claim in the amounts set forth in Article 7.5 above; provided that (i) any  
15 deficiency shall be an Allowed Class 7 Claim in the appropriate subclass thereof; (ii) as to Lehman  
16 Secured Claims for which, as to all of the applicable collateral other than Cash Collateral of the  
17 applicable Lehman Creditor, there is a Successful Bidder in accordance with the Lehman Plan Sale  
18 or Foreclosure Procedures, the amount of a Lehman Secured Claim shall equal the sum of (a) such  
19 Cash Collateral and (b) the amount bid by the Successful Bidder for the non-Cash collateral; and (iii)  
20 as to all other Lehman Secured Claims, upon disposition of all of the collateral therefor or upon a  
21 valuation motion made by the Liquidating Trustee or the applicable Holder of any Lehman Secured  
22 Claims after abandonment or surrender thereof, the amount of the applicable Lehman Secured Claim  
23 and any related deficiency shall be accordingly adjusted.

24 (d) **Disposition of Collateral**

25 On the Effective Date, all Cash Collateral for a Lehman Secured Claim not used on  
26 the Effective Date as permitted or required by the Lehman Plan shall be deposited into the Plan  
27 Reserve. Certain of the Remaining Real Restate Projects shall be sold or conveyed pursuant to the  
28 Lehman Plan Sale or Foreclosure Procedures. If a Project or other Asset of a Plan Debtor which is

the collateral for a Lehman Secured Claim is transferred to one or more Lehman Nominees pursuant to the Lehman Plan Sale or Foreclosure Procedures, any such Project so conveyed shall become a PRA Security Project subject to the PRA Recovery Deed of Trust as and to the extent described in Article IX of the Plan. If a Project or other Asset of a Plan Debtor which is collateral for a Lehman Secured Claim is sold to a third party purchaser, the Net Cash Proceeds therefrom shall be remitted to the Liquidating Trustee who shall hold such Net Cash Proceeds in the Plan Reserve and any non-Cash Net Proceeds therefrom shall also be remitted to the Liquidating Trustee and the applicable Lehman Lender shall be afforded a substitute Lien on such non-Cash Net Proceeds. Any remaining collateral for a Lehman Secured Claim, which is not otherwise sold or conveyed pursuant to the Lehman Plan Sale or Foreclosure Procedures may be retained, sold or abandoned by the Liquidating Trustee as provided under the Lehman Plan with the Net Cash Proceeds therefrom to be applied first to pay such Lehman Secured Claim and then to pay other Claims in accordance with the Lehman Plan, provided that, if no disposition of such collateral occurs within one (1) year after the Effective Date, the applicable Lehman Lender may enforce its Liens.

(e) **Releases, Reconveyances, Assignments and Payments.**

(i) Upon final settlement or determination of the Project Related Actions in favor of the applicable Lehman Related Parties, consistent therewith, the Liquidating Trustee shall (1) release and reconvey to the applicable Lehman Nominees all PRA Recovery Deeds of Trust and terminate all Reconveyance Agreements, (2) pay the applicable Lehman Nominee the amount held in the Plan Reserve in respect of, and any other, Net Cash Proceeds of the sale of the PRA Security Project previously owned by such Lehman Nominee, (3) assign non-Cash Net Proceeds (including all substitute Liens and related, underlying obligations) (x) from the sale of any PRA Security Project, to the applicable Lehman Nominee and (y) from the sale of any collateral for a Lehman Secured Claim, to the applicable Holder of such Lehman Secured Claim, (4) distribute to the applicable Holder of a Lehman Secured Claim any remaining non-Cash collateral for such Claim, and (5) pay to the applicable Holder of a Lehman Secured Claim, the amounts held in the Plan Reserve with respect to such Lehman Secured Claim (including any Cash Collateral of such Holder that was deposited in the Plan Reserve) and any other Net Cash Proceeds of the disposition of

collateral for such Lehman Secured Claim, up to the amount of the Lehman Secured Claim, with interest and fees in accordance with its contractual terms. Thereupon, the Allowed Lehman Secured Claim shall be deemed satisfied by such payments and such conveyances of collateral free and clear as set forth in Section 9.7.2(a).

(ii) Upon final settlement or determination of the Project Related Actions against the applicable Lehman Related Parties, consistent therewith, the Liquidating Trustee, in satisfaction of the Project Related Action Recoveries, shall distribute to the applicable Estates available Cash from the Plan Reserve and shall liquidate and distribute to the applicable Estates the Net Proceeds from the PRA Recovery Security Pool and non-Cash Net Proceeds from the sale of collateral for the Lehman Secured Claims (which are the exclusive sources of satisfaction of a Project Related Action Recovery absent a voluntary payment by a Lehman Related Party in accordance with Article IX of the Plan), and upon satisfaction of the Project Related Action Recoveries, to the extent of any remainder of such Cash or property, the Liquidating Trustee shall afford Lehman Secured Claims the treatment described in the preceding subparagraph to this Section (e) of the Lehman Plan.

(iii) As more fully set forth in Article IX of the Plan, at any time that the Plan Reserve contains an amount equal to the Maximum PRA Recovery Amount, the Liquidating Trustee shall release and reconvey to the applicable Lehman Nominees all PRA Recovery Deeds of Trust, terminate all Reconveyance Agreements and release to the applicable Holders of Lehman Secured Claims and all Lehman Nominees all funds in the Plan Reserve in excess of the Maximum PRA Recovery Amount.

### **7.6.3 Treatment of Allowed Danske Bank Secured Claim (Class 3).**

The treatment of the Danske Bank Secured Claim (Class 3) under the Lehman Plan shall be as follows:

#### **(a) Voting.**

Class 3 is impaired under the Plan, and the Holder of the Allowed Danske Secured Claim is entitled to vote on the Plan.

#### **(b) Liens.**

As of the Effective Date, the Holder of the Allowed Danske Secured Claim shall

1 retain its underlying Liens on the applicable collateral.

2 (c) **Claims.**

3 The Allowed Danske Secured Claim shall be Allowed for voting and all other  
4 purposes as a Secured Claim in the amounts set forth in Article 7.5 above; provided that (i) any  
5 deficiency shall be an Allowed Class 7 Claim in the appropriate subclass thereof; and (ii) upon  
6 disposition of all of the collateral for such Allowed Danske Secured Claim or upon valuation motion  
7 made by the Liquidating Trustee or the Holder of such Allowed Danske Secured Claim after  
8 abandonment or surrender of such collateral, the amount of the Allowed Danske Secured Claim and  
9 any related deficiency shall be accordingly adjusted.

10 (d) **Disposition of Collateral and Means Therefor**

11 On the Effective Date, all Cash Collateral for the Allowed Danske Secured Claim  
12 shall be turned over to the Holder of the Allowed Danske Secured Claim in respect of such Claim,  
13 unless the Holder agrees to permit the Liquidating Trustee to retain or use any portion thereof.

14 The Liquidating Trustee shall market for sale and sell the non-Cash collateral for the  
15 Allowed Danske Secured Claim, including the 10000 Santa Monica Project, or abandon all or any of  
16 such collateral upon motion to the Bankruptcy Court. The collateral, together with all associated  
17 personal property, shall be sold free and clear of Encumbrances other than Permitted Liens for Cash,  
18 or on such other terms to which the Holder of the Allowed Danske Secured Claim consents. The  
19 Holder of the Allowed Danske Secured Claim shall receive at least thirty (30) days' prior notice of  
20 any proposed sale. The Holder of the Allowed Danske Secured Claim may elect to credit bid in  
21 response to such notice up to the full amount of the Allowed Danske Secured Claim (without the  
22 amount bid being limited to the value of the interest of the Holder of the Allowed Danske Secured  
23 Claim in such collateral).

24 If the collateral for the Allowed Danske Secured Claim is sold to a third party  
25 purchaser, promptly upon receipt thereof by the Liquidating Trustee, there shall be turned over or  
26 paid to the Holder of the Allowed Danske Secured Claim up to the full amount of the Allowed  
27 Danske Secured Claim from any non-Cash Net Proceeds therefrom and from the Net Cash Proceeds  
28 remaining after payment, (a) first, of SunCal Century City's Pro Rata share of the Lehman Post-



Confirmation Loan, (b) second, payment of SunCal Century City's direct Post-Confirmation Expenses and its Pro Rata share of unpaid Post-Confirmation Expenses commonly allocable among it and other Plan Debtors, and (c) third, any post-Confirmation Date intercompany payables. Any remaining Net Cash Proceeds thereafter shall be used to pay other obligations of the applicable Debtor in the priorities set forth in Section 9.9.2(b) of the Plan. If no disposition of such collateral occurs within one (1) year after the Effective Date, the Holder of the Allowed Danske Secured Claim may enforce its Liens. The Holder of the Allowed Danske Secured Claim may advance funds to the Liquidating Trustee for the protection of its collateral or administration of the Estate of SunCal Century City on such terms as the Holder of the Allowed Danske Secured Claim and Liquidating Trustee agree.

**7.6.4 Treatment of Other Secured Claims (Classes 4.1 Through 4.15).**

The treatment of Allowed Other Secured Claims in Classes 4.1 through 4.15 under the Lehman Plan shall be as follows:

(a) Classes 4.1 through 4.15 are unimpaired under the Plan, and each Holder of an Allowed Secured Claim in Classes 4.1 through 4.15 is not entitled to vote on the Plan;

(b) As of the Effective Date, each Holder of an Allowed Other Secured Claim in Classes 4.1 through 4.15 shall retain its underlying Liens on the applicable collateral;

(c) On or before the Effective Date, the Lehman Lenders, in consultation with the Committees and anticipated Liquidating Trustee, as limited below, shall select and the Liquidating Trustee shall implement, as necessary, unless the Holder of an Allowed Other Secured Claim in Classes 4.1 through 4.15 agrees to less favorable treatment, one of the following alternative treatments for each such Allowed Other Secured Claim in Classes 4.1 through 4.15, which treatment shall be in full and final satisfaction, settlement, release, and discharge of, and exchange for each such Allowed Secured Claim in Classes 4.1 through 4.15:

(1) Abandonment or Surrender. On the Effective Date, the Liquidating Trustee will abandon or surrender to the Holder of such Allowed Other Secured Claim in Classes 4.1 through 4.15 the property securing such Allowed Other Secured Claim in Classes 4.1 through 4.15 as of the Effective Date;

(2) Cash Payment. On the Effective Date, the Liquidating Trustee (with the consent of the Lehman Lenders to the extent that payment would require utilization of Cash Collateral of any of the Lehman Creditors, which consent may be granted or denied in their sole discretion) will pay, to the Holder of such Allowed Other Secured Claim in Classes 4.1 through 4.15, Cash equal to the amount of such Allowed Other Secured Claim in Classes 4.1 through 4.15, or such lesser amount as to which the Holder of such Allowed Other Secured Claim in Classes 4.1 through 4.15, the Liquidating Trustee and the Lehman Lenders agree; or

(3) Unimpairment. (i) As of the Effective Date, the Holder of such Allowed Other Secured Claim in Classes 4.1 through 4.15 shall have left unaltered its legal, equitable and contractual rights as a Holder of such Allowed Other Secured Claim in Classes 4.1 through 4.15 and shall be free to pursue its rights and remedies against the underlying collateral under applicable nonbankruptcy law; and (ii) the Liquidating Trustee shall File with the Bankruptcy Court and serve on the Holder of each Allowed Other Secured Claim in Classes 4.1 through 4.15 for which this treatment is selected, notice of the selection of this alternative treatment for such Holder.

**7.6.5 Treatment of Allowed Secured Mechanic's Lien Claims Against the Plan Debtors (Classes 5.1 Through 5.54).**

The treatment of Allowed Secured Mechanic's Lien Claims in Classes 5.1 through 5.54 under the Lehman Plan shall be as follows:

(a) Classes 5.1 through 5.54 are unimpaired under the Plan, and each Holder of an Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54 is not entitled to vote on the Plan;

(b) As of the Effective Date, each Holder of an Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54 shall retain its underlying Liens on the applicable collateral;

(c) On or before the Effective Date, the Lehman Lenders, in consultation with the Committees and the anticipated Liquidating Trustee, as limited below, shall select, and the Liquidating Trustee shall implement, as necessary, unless the Holder of an Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54 agrees to less favorable treatment, one of the following alternative treatments for each such Allowed Secured Mechanic's Lien Claim in Classes

5.1 through 5.54, which treatment shall be in full and final satisfaction, settlement, release, and discharge of, and exchange for each such Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54:

(1) Abandonment or Surrender. On the Effective Date, the Liquidating Trustee will abandon or surrender to the Holder of such Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54 the property securing such Allowed Secured Claim as of the Effective Date;

(2) Cash Payment. On the Effective Date, the Liquidating Trustee (with the consent of the Lehman Lenders to the extent that payment would require utilization of Cash Collateral of any of the Lehman Creditors, which consent may be granted or denied in their sole discretion) will pay, to the Holder of such Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54, Cash equal to the amount of such Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54, or such lesser amount as to which the Holder of such Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54, the Liquidating Trustee and the Lehman Lenders agree; or

(3) Unimpairment. (i) As of the Effective Date, the Holder of such Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54 shall have left unaltered its legal, equitable and contractual rights as a Holder of such Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54 and shall be free to pursue its rights and remedies against the underlying collateral under applicable nonbankruptcy law; and (ii) the Liquidating Trustee shall File with the Bankruptcy Court and serve on the Holder of each Allowed Secured Mechanic's Lien Claim in Classes 5.1 through 5.54 for which this treatment was selected, notice of the selection of this alternative treatment for such Holder.

#### **7.6.6 Treatment of Priority Claims (Classes 6.1 Through 6.4).**

The treatment of Allowed Priority Claims in Classes 6.1 through 6.4 under the Lehman Plan shall be as follows:

(a) Classes 6.1 through 6.4 are unimpaired under the Plan, and each Holder of an Allowed Priority Claim is not entitled to vote on the Plan.

(b) Each Holder of an Allowed Priority Claim shall be paid (i) the full amount of such Allowed Priority Claim in Cash on the later of (x) the Effective Date, (y) the date such Claim

1 becomes an Allowed Priority Claim or (z) the date such Allowed Priority Claim becomes payable in  
2 accordance with the terms governing such Allowed Priority Claim, or (ii) upon such other less  
3 favorable terms as may be agreed to by such Holder of the Allowed Priority Claim and the  
4 Liquidating Trustee.

5 **7.6.7 Treatment of Allowed General Unsecured Claims (Classes 7.1 Through**  
6 **7.24).**

7 The treatment of Allowed General Unsecured Claims in Classes 7.1 through 7.24  
8 under the Lehman Plan shall be as follows:

9 (a) Classes 7.1 through 7.24 are impaired under the Plan, and each Holder of an  
10 Allowed General Unsecured Claim is entitled to vote on the Plan; and

11 (b) As soon as reasonably practicable in the sole discretion of the Liquidating  
12 Trustee, the Liquidating Trustee shall distribute the Residual Cash in each Estate Pro Rata to the  
13 Holders of Allowed General Unsecured Claims in Classes 7.1 through 7.24, as applicable, and  
14 Allowed ES Claims in Classes 8.1 through 8.19, as applicable.

15 **7.6.8 Treatment of Allowed ES Claims (Classes 8.1 through 8.19).**

16 The treatment of Allowed ES Claims in Classes 8.1 through 8.19 under the Lehman  
17 Plan shall be as follows:

18 (a) Classes 8.1 through 8.19 are impaired under the Plan, and each Holder of an  
19 Allowed ES Claim is entitled to vote on the Plan;

20 (b) As soon as reasonably practicable in the sole discretion of the Liquidating  
21 Trustee, the Liquidating Trustee shall distribute the Residual Cash in each Estate Pro Rata to the  
22 Holders of Allowed General Unsecured Claims in Classes 7.1 through 7.24, as applicable, and  
23 Allowed ES Claims in Classes 8.1 through 8.19, as applicable (subject to the terms of any ES  
24 Claimant Release and Assignment with respect to Claims against a Lehman Releasee);

25 (c) Each Holder of an Allowed ES Claim also shall receive either:

26 (i) if the Holder of an Allowed ES Claim votes to accept the ES  
27 Settlement Offer (or if there is Estate Acceptance of the ES Settlement for the Estate against which  
28 the Allowed ES Claim is asserted) and the Holder returns with its Ballot or to the Lehman Lenders a

duly executed ES Claimant Release and Assignment, an ES Pro Rata Settlement Payment to be paid as soon as reasonably practicable after the later of: (1) the Effective Date; and (2) final allowance of such Allowed ES Claim; or

(ii) if the Holder of an Allowed ES Claim does not vote to accept the ES Settlement Offer (and there is not Estate Acceptance of the ES Settlement for the Estate against which the Allowed ES Claim is asserted), the benefits, if any, of the Equitable Subordination Claims as determined by the Bankruptcy Court in connection with an ES Action, as and when available. For Holders of Allowed ES Claims entitled to the benefits, if any, of the Equitable Subordination Claims as determined by the Bankruptcy Court in connection with an ES Action, upon final settlement or determination of the Equitable Subordination Claims in an ES Action against the applicable Lehman Related Parties, if any and consistent therewith, the Liquidating Trustee, in satisfaction of an ES Judgment, shall distribute to the applicable Estate available Cash from the Plan Reserve and shall liquidate and distribute to the applicable Estate Net Cash Proceeds from the PRA Recovery Security Pool and from the liquidation of any non-Cash Net Proceeds from the sale of collateral of the Holders of Lehman Secured Claims or the sale of any PRA Security Project (which are the exclusive sources of satisfaction of an ES Judgment absent a voluntary payment by a Lehman Related Party in accordance with Article IX of the Plan).

#### **7.6.9 Treatment of Holders of Allowed Interests (Classes 9.1 through 9.24)**

The treatment of Allowed Interests in Classes 9.1 through 9.24 under the Lehman Plan shall be as follows:

(a) Classes 9.1 through 9.24 are impaired under the Plan, and each Holder of an Allowed Interest is deemed to reject the Plan and is not entitled to vote; and

(b) On the Effective Date, all such Allowed Interests shall be cancelled.

### **VIII.**

#### **ACCEPTANCE OR REJECTION OF THE LEHMAN PLAN**

##### **8.1 Introduction.**

PERSONS OR ENTITIES CONCERNED WITH CONFIRMATION OF THE PLAN SHOULD CONSULT WITH THEIR OWN ATTORNEYS BECAUSE THE LAW ON

CONFIRMING A PLAN OF REORGANIZATION IS VERY COMPLEX. The following discussion is intended solely for the purpose of alerting readers about basic confirmation issues, which they may wish to consider, as well as certain deadlines for filing Claims. The Lehman Proponents cannot represent that the discussion contained below is a complete summary of the law on this topic.

Many requirements must be met before the Bankruptcy Court can confirm the Lehman Plan. Some of the requirements include that the Lehman Plan must (a) be proposed in good faith, (b) be accepted in accordance with the provisions of the Bankruptcy Code, (c) pay creditors at least as much as creditors would receive in a Chapter 7 liquidation and (d) be feasible. The requirements described herein are not the only requirements for confirmation.

## **8.2 Who May Object to Confirmation of the Lehman Plan.**

Any party in interest may object to the confirmation of the Lehman Plan, but as explained below not everyone is entitled to vote to accept or reject the Lehman Plan.

## **8.3 Who May Vote to Accept/Reject the Lehman Plan and Special Provisions for Listed Holders of Mechanic's Lien Claims.**

A Holder of a Claim or Interest has a right to vote for or against the Lehman Plan if that Holder of the Claim or Interest has a Claim which is both (1) Allowed or Allowed for voting purposes and (2) Classified in an impaired Class.

Because Classes 5.1 through 5.54 are unimpaired, any Holders of Allowed Mechanic's Lien Claims are deemed to accept the Plan. The Lehman Proponents, however, dispute the "secured" status of all, many or most of the Claims classified in Classes 5.1 to 5.54 because they believe that there are senior Liens of Lehman Creditors and no value in the junior Liens of the Holders of Mechanic's Lien Claims. Thus, each listed Holder of a Mechanic's Lien Claim will be provided a Ballot on which such Holder may elect to vote its Claims as a General Unsecured Claim or an ES Claim, as applicable, in which event the Holder will have to waive contentions that its interest in the collateral securing its Claim has any value and thus that it holds a Secured Claim against the applicable Project.

## **8.4 What Is an Allowed Claim/Interest.**

As noted above, a Holder of Claim or Interest must first have an Allowed Claim or Allowed Interest to vote.

#### **8.5 What Is an Impaired Class.**

A Class is impaired if the Lehman Plan alters the legal, equitable, or contractual rights of the Claims or Interests in that Class, other than the right to accelerate the Claim upon certain kinds of defaults. Under the Lehman Plan, Classes 1, 4, 5 and 6 are unimpaired and Classes 2, 3, 7, 8 and 9 are impaired.

#### **8.6 Who Is Not Entitled to Vote.**

The following four types of Claims are not entitled to vote: (1) Claims that have been disallowed; (2) Claims in unimpaired Classes; (3) Claims that, pursuant to Bankruptcy Code Sections 507(a)(2), (a)(3) or (a)(8), are entitled to priority, and (4) Claims in Classes that do not receive or retain any value under the Plan. Claims in unimpaired Classes are not entitled to vote because such Classes are deemed to have accepted the Plan. Claims entitled to priority pursuant to Bankruptcy Code Section 507(a)(2), (3) or (8) are not entitled to vote because such Claims are not placed in Classes and they are required to receive certain treatment specified by the Bankruptcy Code. Claims in Classes that do not receive or retain any property under the Plan do not vote because such Classes are deemed to have rejected the Plan. The Lehman Proponents believe that (a) Classes 1, 4, 5 and 6 are unimpaired and thus are not entitled to vote because they are conclusively deemed to have accepted the Plan; (b) Class 9 Interests are being cancelled under the Plan and nothing is to be paid to their Holders and accordingly these Holders are deemed to have voted to reject the Plan and also are not entitled to vote; and (c) Classes 2, 3, 7 and 8 are impaired and are entitled to vote.

EVEN IF A CLAIM IS OF THE TYPE DESCRIBED ABOVE, A CREDITOR MAY STILL HAVE A RIGHT TO OBJECT TO THE CONFIRMATION OF THE PLAN.

#### **8.7 Who Can Vote in More than One Class.**

A creditor whose Claim has been Allowed in part as a Secured Claim and in part as an Unsecured Claim is entitled to accept or reject a Plan in both capacities by casting one Ballot for

1 the secured part of the Claim and another Ballot for the Unsecured Claim. Also, a Creditor may  
2 otherwise hold Claims in more than one Class (such as a Holder of General Unsecured Claims and  
3 ES Claims), and may vote the Claims held in each Class.

#### 4 **8.8 Votes Necessary for a Class to Accept the Lehman Plan.**

5 A Class of Claims is deemed to have accepted the Lehman Plan when more than one-  
6 half (1/2) in number and at least two-thirds (2/3) in dollar amount of the Claims *that actually voted*,  
7 vote to accept the Lehman Plan. A Class of interests is deemed to have accepted the Lehman Plan  
8 when Holders of at least two-thirds (2/3) in amount of the interest-Holders of such Class which  
9 actually vote, vote to accept the Lehman Plan.

#### 10 **8.9 Treatment of Nonaccepting Classes.**

11 As noted above, even if there are impaired Classes that do not accept the proposed  
12 Plan, the Court may nonetheless confirm the Lehman Plan if the non-accepting Classes are treated in  
13 the manner required by the Bankruptcy Code and at least one impaired Class of Claims accepts the  
14 Lehman Plan. The process by which a plan may be confirmed and become binding on non-accepting  
15 Classes is commonly referred to as “cramdown.” The Bankruptcy Code allows the Lehman Plan to  
16 be “crammed down” on non-accepting Classes of Claims or Interests if it meets all statutory  
17 requirements except the voting requirements of 1129(a)(8) and if the Lehman Plan does not  
18 “discriminate unfairly” and is “fair and equitable” with respect to each impaired Class that has not  
19 voted to accept the Lehman Plan, as set forth in 11 U.S.C. § 1129(b) and applicable case law.

#### 20 **8.10 Request for Confirmation Despite Nonacceptance by Impaired Class(es).**

21 The Lehman Proponents will ask the Bankruptcy Court to confirm the Lehman Plan  
22 by cramdown on any impaired Class if such Class does not vote to accept the Lehman Plan.

### 23 **IX.**

#### 24 **MEANS OF EXECUTION AND IMPLEMENTATION OF THE LEHMAN PLAN**

##### 25 **9.1 Introduction.**

26 This section is intended to address how the Lehman Proponents intend to fund and to  
27 have implemented the obligations to Creditors under the Lehman Plan. It thus provides information  
28 regarding funding sources and mechanisms for the Plan obligations, management of the Plan



1 Debtors' Estates after the Effective Date and other material issues bearing upon the performance of  
2 the Lehman Plan.

3           The Lehman Creditors are owed, collectively, approximately \$1.9 billion secured by  
4 deeds of trust on certain of the Remaining Real Estate Projects, certain Cash Collateral and other  
5 Assets of the Debtors' Estates. The Debtors have challenged the Lehman Creditors' Secured  
6 Claims, contending that (a) certain of the Lehman Creditors' Liens on the Assets of particular  
7 Debtors who are obligors under certain Lehman Loans are subject to being set aside because, among  
8 other things, other affiliated Debtors, rather than the obligor Debtors, received the benefit of such  
9 Lehman Loans (the Cross-Collateralization Claims), and (b) the Claims of the Lehman Creditors  
10 should be subordinated to the Claims of certain other Creditors allegedly harmed by the conduct of  
11 the Lehman Lenders (the Equitable Subordination Claims). The Lehman Lenders do not concur  
12 with these conclusions of the Debtors and/or with many of the factual contentions asserted as  
13 supporting or providing a basis for the Cross-Collateralization Claims and/or Equitable  
14 Subordination Claims.

15           Nonetheless, to enable the Debtors to emerge from bankruptcy, which the Lehman  
16 Lenders believe is in the interest of all Creditors, with a Plan that is fair to all constituencies and best  
17 preserves current values and prevents further deterioration in the values of the Assets of the Debtors,  
18 the Lehman Proponents have proposed the Lehman Plan through which they: (a) make available  
19 funds for ES Pro Rata Settlement Payments to settle the ES Claims of Settling ES Claimants; (b)  
20 propose, through the Lehman Plan Sale or Foreclosure Procedures, auctions of the Remaining Real  
21 Estate Projects at which third parties may bid for the Remaining Real Estate Projects and at which  
22 the Lehman Creditors and other Holders of Allowed Secured Claims may credit bid; (c) provide for  
23 the means of liquidation of the Remaining Other Assets and for the distribution of Residual Cash for  
24 Holders of both Allowed ES Claims and Allowed General Unsecured Claims; and (d) protect those  
25 ES Claimants who elect not to have the Estates settle their ES Claims by (i) making available the ES  
26 Litigation Loan to enable continued prosecution of the Equitable Subordination Claims in an ES  
27 Action, (ii) granting certain specific concessions, described below, that could facilitate the entry and  
28 collection of an ES Judgment, and (iii) providing security for satisfaction of a Project Related Action

1 Recovery.

2 **9.2 The Liquidating Trustee.**

3 The Estate of each Plan Debtor shall be managed after the Effective Date by the  
4 Liquidating Trustee, who, except as otherwise provided herein, shall oversee and effectuate the  
5 liquidation of the Remaining Other Assets, oversee and effectuate the sale and transfer or other  
6 disposition or liquidation of the Remaining Real Estate Projects and implement the Plan. The  
7 Liquidating Trustee shall be appointed by the Court upon nomination, if any, by a Committee and, in  
8 his or her capacity as such, shall be an agent of each Estate and not a separate taxable entity  
9 therefrom. Compensation of the Liquidating Trustee shall be reasonable hourly compensation  
10 payable from the Plan Debtors' Estates after prior notice to, *inter alia*, the Lehman Lenders,  
11 Committee members, and U.S. Trustee and after order of the Bankruptcy Court. The Bankruptcy  
12 Court may, by order, replace the Liquidating Trustee in its reasonable discretion. After the Effective  
13 Date, the Liquidating Trustee, *inter alia*, will cooperate in granting, perfecting or reflecting  
14 perfection of any Liens acknowledged or created or provided for under the Plan, will complete the  
15 claims process, will resolve or abandon any objections to Claims, will liquidate and/or distribute  
16 assets and will resolve or dismiss any Litigation Claims which are not waived in the Plan, all in  
17 accordance with the Plan.

18 **9.3 Vesting of Assets in Plan Debtors' Estates Managed by Liquidating Trustee.**

19 Except as otherwise provided herein or any agreement, instrument or other document  
20 relating hereto, on and after the Effective Date, all property of each Plan Debtor's Estate shall vest in  
21 each respective Estate, free and clear of all Liens. Except as may be provided herein, on and after  
22 the Effective Date, the Liquidating Trustee may operate the business of each Estate and may use,  
23 acquire or dispose of property and compromise or settle any Claims or Interests without supervision  
24 or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or  
25 Bankruptcy Rules, other than those restrictions expressly imposed by the Plan and the Confirmation  
26 Order. On motion to the Bankruptcy Court and consent of the Lehman Lenders, the Liquidating  
27 Trustee may elect hereafter to abandon to the Plan Debtors Assets of inconsequential value.  
28

1                   **9.4    The Committee(s).**

2                   On the Effective Date, the Voluntary Debtors' Committee and the Trustee Debtors'  
3 Committee shall continue to serve the applicable Estates of the Plan Debtors and shall be entitled to  
4 retain, employ and compensate Professionals in order to assist with the obligations and rights of the  
5 Committees under the terms of the Lehman Plan (with compensation to be paid by the Liquidating  
6 Trustee from the Post-Confirmation Account(s)), provided that the duties of the Committee(s) after  
7 the Effective Date shall be limited to monitoring the Plan's implementation. The Liquidating  
8 Trustee shall reimburse members of the Committee without further Court Order required for their  
9 reasonable out-of-pocket expenses incurred after the Effective Date for mileage, parking, or other  
10 incidentals incurred in performing their duties as members of the Committee.

11                   **9.5    Lehman Post-Confirmation Loans.**

12                   **9.5.1   Amount and Uses of Lehman Post-Confirmation Loans.**

13                   On and after the Effective Date, the Lehman Lenders, or certain of them as described  
14 herein, will make funding available to the Liquidating Trustee, in the form of one or more loans,  
15 from either or both new Cash transfers from or on behalf of a Lehman Related Party (of up to a  
16 maximum of \$5 million) or by permitting the use of Cash Collateral of a Lehman Creditor,  
17 including, without limitation, all or a portion of the Ritter Cash, for the following purposes and in the  
18 following amounts, provided that the proceeds of a Lehman Post-Confirmation Loan may not be  
19 utilized to pay any Lehman Post-Confirmation Expenses:

20                   (a)       Allowed Professional Fees of the insolvency counsels for the Trustee and the  
21 Committees up to the aggregate amount of \$500,000 to be made after payments from the Lehman  
22 Administrative Loans and Available Cash from the Post-Confirmation Account(s) have been  
23 exhausted;

24                   (b)       Payments in satisfaction of Allowed Priority Claims up to the amount of  
25 \$35,000 after Available Cash in the Post-Confirmation Account(s) have been exhausted;

26                   (c)       Funding for or relating to the ES Litigation Expenses solely from proceeds  
27 from the ES Litigation Loan;

28                   (d)       All amounts required to address critical and urgent health and safety issues on

1 the Projects (other than 10000 Santa Monica Project) until the expiration of the earlier of (i) the date  
2 that such Project is no longer an Asset belonging to an Estate of a Plan Debtor, or (ii) thirty (30)  
3 days following the auction of such Project to occur pursuant to the Lehman Plan Sale or Foreclosure  
4 Procedures, up to the aggregate amount of \$400,000 after payments made from the Post-  
5 Confirmation Accounts have been exhausted;

6 (e) Payments in satisfaction of the Lehman Administrative Loans (provided that  
7 (i) payment thereof first has been made from all Cash of the Plan Debtors' Estates that is not Cash  
8 Collateral of a Lehman Creditor, with any such use of Cash of one Plan Debtor's Estate for another  
9 booked as a Post-Confirmation Date intercompany payable by the borrowing Plan Debtor's Estate  
10 and (ii) the Lehman Lenders may elect prior to receipt of payment thereupon to defer receipt thereof  
11 and be paid otherwise as provided herein for such Lehman Administrative Loans);

12 (f) Obligations with respect to the Remaining Real Estate Projects while owned  
13 by the Estates, to the extent requested by the Lehman Lenders holding or representing the Holder of  
14 an interest in the subject Project and in their sole and absolute discretion, including any property  
15 taxes, assessments, liabilities, obligations, claims or payables that would be superior to the interest of  
16 any Lehman Creditor holding a Secured Claim in any Remaining Real Estate Project, which  
17 obligations are to be paid by the Liquidating Trustee if so directed by the Lehman Lenders;

18 (g) Obligations with respect to the PRA Security Projects that are part of the PRA  
19 Recovery Security Pool and therefore serve as collateral for a Project Related Action Recovery to  
20 the extent requested by the Lehman Lenders or Lehman Nominee holding an interest in the subject  
21 Project and in their sole and absolute discretion, including any property taxes, assessments,  
22 liabilities, obligations, claims or payables that would be superior to the interest of any Lehman  
23 Creditor holding a Secured Claim in any Remaining Real Estate Project, which obligations are to be  
24 paid by the Liquidating Trustee if so directed by the Lehman Lenders; provided, however, that  
25 repayment of a loan made for a purpose set forth in this subparagraph shall be limited in recourse to  
26 an offset against any ES Judgment; and

27 (h) To the extent that the Liquidating Trustee is unable to otherwise fund them, all  
28 additional obligations of the Liquidating Trustee (in such capacity) that arise on or after the Effective

1 Date to the extent that both their incurrence is necessary for implementation of the Lehman Plan and  
2 they become due and payable in Cash during the term of the Lehman Post-Confirmation Loans other  
3 than and excluding (i) those obligations of the type or nature (regardless of amount) already set forth  
4 in subsection (a) through (d) above and (ii) those obligations covered in any portion by insurance or  
5 for which obtaining insurance would have been reasonable, appropriate and customary.

6 **9.5.2 Cash Collateral of a Lehman Creditor.**

7 Cash Collateral of Lehman Creditors shall be available as funding for (i) loans to the  
8 Liquidating Trustee and Plan Debtors' Estates as and to the extent set forth in the preceding  
9 numbered Section of the Plan and (ii) for payment of the ES Pro Rata Settlement Payments. At any  
10 time, the Liquidating Trustee, as directed by a Lehman Lender, shall use Cash Collateral of the  
11 Lehman Creditors to repay a Lehman Post-Confirmation Loan that was made other than from the use  
12 of Cash Collateral.

13 Also, upon disposition of collateral of a Lehman Creditor or of a PRA Security  
14 Project that results in proceeds being deposited to the Plan Reserve, or upon turnover of Cash  
15 Collateral to the Plan Reserve, a Lien in favor of the applicable Lehman Creditor shall attach to (or  
16 remain upon) such proceeds and/or Cash Collateral held in the Plan Reserve, subject to a final  
17 settlement or determination of the Project Related Actions.

18 Further, at the election of a Lehman Lender and to facilitate its extension of credit  
19 under the Plan, as to any payment that was to be made with funds comprising Cash Collateral of a  
20 Lehman Creditor, the Lehman Lender may direct the Liquidating Trustee to instead use the funds  
21 from a Lehman Post-Confirmation Loan in the form of new Cash from a Lehman Lender and to pay  
22 a like amount of Cash Collateral securing a Lehman Loan towards a reduction of such Lehman  
23 Loan, as the Lehman Lender directs, provided, however, that such use of Cash Collateral shall not  
24 itself be a Lehman Post-Confirmation Loan and, if such use occurs before termination of the Lehman  
25 Post-Confirmation Loan, the \$5 million maximum Cash commitment of the Lehman Lenders with  
26 respect to the Lehman Post-Confirmation Loans shall increase by the amount of Cash Collateral so  
27 used to pay a Lehman Loan.  
28

**9.5.3 Terms and Documentation of Lehman Post-Confirmation Loans.**

The Liquidating Trustee shall reasonably execute all documents reasonably requested by a Lehman Lender to evidence the Lehman Post-Confirmation Loan and the Liens securing it on terms and in a form reasonably requested by such Lehman Lender, with customary and reasonable provisions for interest, fees and expenses thereupon. The Lehman Post-Confirmation Loan is Allowed in the amount of all funding by or on behalf of any Lehman Lender with respect thereto plus interest, fees, expenses and other charges as provided herein and in the documentation thereof. The Lehman Post-Confirmation Loan shall be an obligation of the Liquidating Trustee, payable as provided herein and secured by a self-effectuating, first priority Lien on the Post-Confirmation Accounts, Plan Reserve and all proceeds of the Plan Debtors' Assets. The Lehman Post-Confirmation Loan is payable as set forth under the Lehman Plan, provided that, in all events, the Lehman Post-Confirmation Loan shall terminate and the Liquidating Trustee shall pay the Lehman Post-Confirmation Loan and all related interest, fees, expenses and other charges in full no later than sixty (60) days following the settlement and/or final determination of the Project Related Actions; provided, further, that to the extent such Lehman Post-Confirmation Loan is made with funds comprising Cash Collateral of a Lehman Creditor and any applicable Lehman Creditor's Claim secured by a Lien upon such Cash Collateral is subordinated or set aside by a Project Related Action Recovery, repayment of such portion of the Lehman Post-Confirmation Loan funded with funds comprising Cash Collateral, or interest thereon, shall be effectuated by offset, dollar for dollar, against the benefits, recoveries and proceeds otherwise afforded by such Project Related Action Recovery.

**9.6 Plan Reserve and Post-Petition Accounts.**

In order to, among other things, provide for a source of recovery in respect of Non-Settled ES Claims should an ES Judgment be obtained for the benefit of the Holders of such Non-Settled ES Claims, and in respect of the applicable Estates and their Creditors should a Cross-Collateralization Judgment be obtained for the benefit of such Creditors, the Lehman Lenders are making available Cash on which the Lehman Creditors claim a Lien. Specifically, (a) on the Effective Date, all Cash of the Estates of the Plan Debtors not otherwise distributed in accordance

1 with the Plan shall be held by the Liquidating Trustee either in the Plan Reserve or a Post-  
2 Confirmation Account pending payment of any Post-Confirmation Expenses or distribution in  
3 accordance with the Plan, (b) on and after the Effective Date, all Cash Collateral of the Lehman  
4 Creditors shall be deposited by the Liquidating Trustee into the Plan Reserve, pending distribution or  
5 payment in accordance with the Plan, (c) all new Cash transfers from or on behalf of a Lehman  
6 Lender that are proceeds of or comprising a Lehman Post-Confirmation Loan shall be deposited in  
7 or held in the Plan Reserve until utilized in accordance with the Lehman Plan, and (d) on and after  
8 the Effective Date, the Lehman Lenders shall have a Lien and / or retain their Lien on all Cash in the  
9 Plan Reserve, which Cash also shall serve, among other things, as a reserve for satisfaction of a  
10 Project Related Action Recovery and shall be a component of the PRA Recovery Security Pool. The  
11 applicable Lehman Creditor shall report the Cash Collateral held in the Plan Reserve as being owned  
12 by it for all applicable federal, state and local income tax purposes. The Liquidating Trustee shall  
13 distribute, or cause to be distributed, forty five percent (45%) of all income and gain earned with  
14 respect to amounts in the Plan Reserve no less than annually and prior to any such amounts being  
15 otherwise distributed pursuant to the Plan.

## 16 **9.7 Disposition of Assets**

17 The Assets of the Estates of the Plan Debtors consist primarily of certain Remaining  
18 Real Estate Projects and certain Cash that is Cash Collateral for Lehman Secured Claims. There also  
19 may be certain Remaining Other Assets, including Litigation Claims. (Litigation Claims possibly  
20 could result in affirmative recoveries for the Estates or possibly could reduce the size of the Creditor  
21 Claims to share in available Cash for distribution.)

### 22 **9.7.1 Litigation Claims, Net Cash Litigation Recoveries and Remaining Other** 23 **Assets.**

24 The Remaining Other Assets (other than Cash) shall be liquidated by the Liquidating  
25 Trustee, and the Net Cash Proceeds therefrom shall be available for payment of Claims and  
26 Creditors in accordance with the Plan. Pursuant to Section 1123(b)(3) of the Bankruptcy Code and  
27 subject to the compromises, waivers and releases provided herein, the Liquidating Trustee shall  
28 retain all Litigation Claims whether or not pending on the Effective Date. Unless a Litigation Claim

is expressly waived, relinquished, released, compromised or settled in the Lehman Plan or in a Final Order, all rights with respect to such Litigation Claims are reserved and the Liquidating Trustee may pursue such Litigation Claims. The Liquidating Trustee shall not settle or abandon a Litigation Claim valued at greater than \$100,000 without a Lehman Lender's consent and absent providing ten (10) days' prior written notice and opportunity to object to the Committees; and the Lehman Lenders may pursue any Litigation Claim for the applicable Estate or Estates that, upon request, the Trustee does not agree to pursue. Any disputes concerning the settlement or abandonment of a Litigation Claim shall be submitted to the Bankruptcy Court for resolution on no less than ten (10) days' notice to the objecting party. All Net Cash Litigation Recoveries realized or obtained in respect of Litigation Claims of the Estates shall be promptly deposited into the Post-Confirmation Account(s) or Plan Reserve, as appropriate. Except as otherwise provided in the Lehman Plan and the Confirmation Order, the Net Cash Litigation Recoveries shall be free and clear of all Liens and shall only be expended in accordance with the provisions of the Lehman Plan.

**9.7.2 Disposition of the Remaining Real Estate Projects.**

The disposition of the Remaining Real Estate Projects or related Assets shall be as follows:

**(a) Lehman Plan Sale or Foreclosure Procedures.**

(i) Upon the Effective Date, the Liquidating Trustee shall market for sale the Remaining Real Estate Projects and related Assets pursuant hereto.

(ii) Within sixty (60) days after the Effective Date, the Liquidating Trustee shall hold auctions on such dates and at such times and places as is reasonably established by the Liquidating Trustee, provided that all auctions shall occur no later than sixty (60) days after the Effective Date. At the auctions, the Remaining Real Estate Projects and related Assets for which there is a Successful Bidder shall be sold or conveyed to a third party purchaser, a Lehman Nominee, or another Holder of an Allowed Secured Claim who submits a qualifying bid and becomes the Successful Bidder in accordance herewith and pursuant to the further detailed procedures for such bidding and auctions, which detailed procedures shall be in a form acceptable to the Lehman Creditors and Liquidating Trustee or as reasonably proposed by the Lehman Lenders and approved



1 by the Bankruptcy Court at or after the hearing on confirmation of the Plan, as may be modified after  
2 the Confirmation Date by agreement of the applicable Lehman Lenders or other owners and the  
3 Liquidating Trustee or approval of the Bankruptcy Court (the “Detailed Sale / Foreclosure  
4 Procedures”).

5 (iii) Pursuant to Bankruptcy Code Section 363 and the Lehman Plan, at the auction  
6 of each Remaining Real Estate Project, such Remaining Real Estate Project and all associated  
7 personal property, including the applicable Plan Debtor’s Estate’s right, title and interest in, to and  
8 under any development agreements, plans, engineering reports and community facilities district  
9 bonds, shall be sold (if to a third party purchaser) or conveyed pursuant to judicial foreclosure by  
10 virtue of the Confirmation Order (if to a Holder of an Allowed Secured Claim) to the highest bidder  
11 or its nominee free and clear of any Encumbrances (other than the Permitted Liens) with such  
12 Encumbrances (other than the Permitted Liens) not paid in connection with the transaction to attach  
13 to the consideration to be received by the Liquidating Trustee in the same priority and subject to the  
14 same defenses and avoidability, if any, as before the closing of the transaction. The Liquidating  
15 Trustee shall obtain a hearing date from the Bankruptcy Court at which the Bankruptcy Court shall  
16 issue an Order approving such sales or conveyances to the extent consistent herewith and order that  
17 such sale or conveyance shall be free and clear of all Encumbrances (other than Permitted Liens) in  
18 accordance herewith. Consistent with each particular bid, debts and obligations secured by existing  
19 Encumbrances on said Remaining Real Estate Projects or related property at the time of sale or  
20 conveyance either shall be paid in full upon such sale or conveyance, attach to the Net Cash  
21 Proceeds with the same validity, priority and extent to which they attach to the underlying collateral  
22 (such as would occur with respect to the Lehman Secured Claims upon a sale to a third party  
23 purchaser) or be unimpaired in which case the Remaining Real Estate Projects or other assets sold or  
24 conveyed shall remain encumbered by the Encumbrances thereon securing the unimpaired debts and  
25 obligations and such Encumbrances would be Permitted Liens.

26 (iv) Subject to the terms of the Lehman Plan, the respective Lehman Creditors  
27 commit to credit bid the following “Initial Bids” at the auctions as to the indicated Assets and may  
28 elect hereafter to make the following “Contingent Bids” at the auctions with respect to the indicated

Assets as set forth in the following table:

<b><u>LEHMAN CREDITORS' INITIAL BIDS AND CONTINGENT BIDS</u></b>					
<b><u>Initial Bid #;</u></b> <b><u>Cont. Bid Letter</u></b>	<b><u>Class</u></b>	<b><u>Claims</u></b>	<b><u>Plan Debtor and Basis for Claim (i.e., Scheduled Amount or Case in Which Proof Filed and Number).</u></b>	<b><u>Asset</u></b>	<b><u>Bid</u></b>
1	Class 2.3	Allowed Secured Claim of Lehman Commercial or its assignee or successor against SunCal Emerald arising from the SunCal Communities I Loan Agreement in the Allowed Amount of \$343,221,391.06.	SunCal Emerald; SunCal Emerald: 7	Emerald Meadows Project	Initial Bid: \$12 Million
2	Class 2.4	Allowed Secured Claim of Lehman Commercial or its assignee or successor against SunCal Bickford arising from the SunCal Communities I Loan Agreement in the Allowed Amount of \$343,221,391.06.	SunCal Bickford; SunCal Bickford: 16	Bickford Ranch Project	Initial Bid: \$29.5 Million
3	Class 2.6	Allowed Secured Claim of Lehman Commercial or its assignee or successor against Palmdale Hills arising from the Ritter Ranch Loan Agreement in the Allowed Amount of \$287,252,096.31.	Palmdale Hills; Palmdale Hills 65	Ritter Ranch Project	Initial Bid: \$42.9 Million
4	Class 2.12	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal Oak Knoll arising from the SunCal Oak Knoll/SunCal Torrance Loan Agreement in the Allowed Amount of \$158,141,364.64.	SunCal Oak Knoll; SunCal Oak Knoll: 12	Oak Knoll Project	Initial Bid: \$48 Million

5	Class 2.13	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal Torrance arising from the SunCal Oak Knoll/SunCal Torrance Agreement in the Allowed Amount of \$157,870,186.15.	SunCal Torrance; SunCal Torrance: 4	Del Amo Project	Initial Bid: \$25 Million
6	Class 2.14	Allowed Secured Claim of Lehman ALI or its assignee or successor against Delta Coves arising from the Delta Coves Loan Agreement in the Allowed Amount of \$206,023,142.48.	Delta Coves; Delta Coves 21	Delta Coves Project	Initial Bid: \$25.2 Million
7	Class 2.15	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal Marblehead arising from the SunCal Marblehead / SunCal Heartland Loan Agreement in the Allowed Amount of \$354,325,126.15.	SunCal Heartland; SunCal Heartland: 9	Marblehead Project	Initial Bid: \$187.5 Million
8	Class 2.16	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal Heartland arising from the SunCal Marblehead / SunCal Heartland Loan Agreement in the Allowed Amount of \$354,325,126.15.	SunCal Marblehead; SunCal Marblehead: 21	Heartland Project	Initial Bid: \$7.9 Million
9	Class 2.17	Allowed Secured Claim of OVC Holdings against SunCal Oak Valley arising from the SunCal Oak Valley Loan Agreement in the Allowed Amount of \$141,630,091.63.	SunCal Oak Valley; SunCal Oak Valley 16	Oak Valley Project	Initial Bid: \$20.9 Million
10	Class 2.18	Allowed Secured Claim of Northlake Holdings against SunCal Northlake arising from the Northlake Loan Agreement in the Allowed Amount of \$123,654,776.88.	SunCal Northlake; SunCal Northlake 6	Northlake Project	Initial Bid: \$23 Million

11	Class 2.19	Allowed Secured Claim of Lehman ALI or its assignee or successor against SunCal PSV arising from the SunCal PSV Loan Agreement in the Allowed Amount of \$88,257,340.20.	SunCal PSV; SunCal PSV 12	Palm Springs Village Project	Initial Bid: \$13.8 Million
A	Class 2.1	Allowed Secured Claim of Lehman Commercial or its assignee or successor against SunCal I arising from the SunCal Communities I Loan Agreement in the Allowed Amount of \$343,221,391.06.	SunCal I; SunCal I: 1	SunCal Beaumont's Beaumont Heights Project	Contingent Bid: \$1.2 Million
				SunCal Johannson's Johannson Ranch Project	Contingent Bid: \$2.1 Million
				SunCal Summit Valley's Summit Valley Project	Contingent Bid: \$750,000
B	Class 2.2	Allowed Secured Claim of Lehman Commercial or its assignee or successor against Acton Estates arising from the SunCal Communities I Loan Agreement in the Allowed Amount of \$343,221,391.06.	Acton Estates; Acton Estates: 6	Acton Project	Contingent Bid: \$3.4 Million
C	Class 2.5	Allowed Secured Claim of Lehman Commercial or its assignee or successor against SunCal Summit Valley arising from SunCal Communities I Loan Agreement in the Allowed Amount of \$343,221,391.06.	SunCal Summit Valley; SunCal Summit Valley: 12	Ownership Interests of Kirby Estates and Seven Brothers in Summit Valley Project	Contingent Bid: \$1.075 Million
D	Class 2.9	Allowed Secured Claim of Lehman ALI or its assignee or successor against SCC Communities, arising from the Interim Loan Agreement in the Allowed Amount of \$23,795,012.59.	SCC Communities; SCC Communities: 9	Joshua Ridge Project	Contingent Bid: \$1 Million

E	Class 2.11	Allowed Secured Claim of Lehman ALI or its assignee or successor against Tesoro rising from the Interim Loan in the Allowed Amount of \$23,795,012.59.	Tesoro; Tesoro: 7	Tesoro Project	Contingent Bid: \$1.5 Million
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(v) Qualifying bids by third party purchasers must be bids for payment in Cash. Other Holders of Allowed Secured Claims may credit bid such amount of their Allowed Secured Claims as agreed with the Liquidating Trustee or fixed by the Bankruptcy Court, in each case on a Project by Project basis. The bids of such other Holders of Allowed Secured Claims and third party purchasers must comply with and be made consistent with the Detailed Sale / Foreclosure Procedures. If a qualifying bid or bids are received for any Project within forty-five (45) days after the Effective Date, such bids shall be Filed with the Bankruptcy Court by the Liquidating Trustee.

(vi) The Initial Bids and, if made by any Lehman Creditor (and subject to the following), the Contingent Bids, and any increased bids thereof by Lehman Creditors up to the outstanding amount of the applicable Lehman Loans as set forth in Article 7.5 of the Lehman Plan, each shall be deemed fully qualifying and eligible bids for all purposes of such auctions and the Detailed Sale / Foreclosure Procedures. If no higher and better bid is made by another Holder of an Allowed Secured Claim or third party purchaser in accordance with the Detailed Sale / Foreclosure Procedures, the applicable Lehman Creditor shall be the Successful Bidder and the Liquidating Trustee shall convey the subject Project and related Assets to a Lehman Nominee in accordance herewith. The Lehman Nominee shall report the subject Project and related Assets as being owned by it for all applicable federal, state and local income tax purposes. If there is no Successful Bidder with respect to an Asset, the Liquidating Trustee need not sell or convey it pursuant to the Lehman Plan Sale or Foreclosure Procedures.

(vii) The Initial Bids are in the amount of the Lehman Creditors' previously appraised values for the subject Projects. The Contingent Bids are in the amounts of the Debtors' value estimates as set forth in the Debtors' Second Amended Disclosure Statement. The Contingent Bids relate to Assets as to which either (1) the Debtors have alleged that the Lien of the applicable Lehman Lender is subject to a Cross-Collateralization Claim or (2) a Lehman Lender holds a Lien

1 on the equity interest in the owner of the Project, but not directly upon the Project itself.

2 (viii) Although a Lehman Creditor may at any time elect to bid Cash for an Asset  
3 on the same terms as other third parties, for bids made through the Initial Bids and, if the applicable  
4 Lehman Creditors elect to make them, bids made through the Contingent Bids, Creditors are  
5 protected, as and to the extent provided herein:

6 A. Any Remaining Real Estate Project which is conveyed to a Lehman  
7 Nominee pursuant to the Lehman Plan Sale or Foreclosure Procedures pursuant to an Initial Bid or  
8 Contingent Bid or increased bid therefrom, as set forth above (each a “PRA Security Project”) shall  
9 be encumbered by a PRA Recovery Deed of Trust and such Lehman Nominee shall execute a  
10 Reconveyance Agreement.

11 B. Contingent Bids B, D and E, identified in the table above, relate to  
12 three Remaining Real Estate Projects as to which the Debtors have alleged that the Lien of the  
13 Lehman Lender is subject to a Cross-Collateralization Claim. If a Lehman Creditor is a Successful  
14 Bidder pursuant to Contingent Bid B, D or E, a reconveyance obligation for a Cross-  
15 Collateralization Judgment will apply as to such Project as set forth herein and such obligation will  
16 be secured by a PRA Recovery Deed of Trust (which shall be released as provided herein).

17 C. Contingent Bids A and C, identified in the table above, relate to three  
18 Remaining Real Estate Projects as to which a Lehman Lender holds a Lien on the equity interests in  
19 the owners of such Remaining Real Estate Projects, but not directly upon the Remaining Real Estate  
20 Projects. Contingent Bids A and C are in the amount of the Debtors’ estimate of value for the  
21 applicable Remaining Real Estate Project set forth in the Debtors’ Second Amended Disclosure  
22 Statement. They will include a Cash portion equal to the full amount of the bid, or, if less, 110% of  
23 the aggregate amount of all non-Lehman Creditor Claims against the particular Plan Debtor owning  
24 the subject Remaining Real Estate Project as estimated in the Debtors’ Second Amended Disclosure  
25 Statement. The Cash portions of Contingent Bids A and C, identified in the table above, for these  
26 three Remaining Real Estate Projects, divided among the five Plan Debtor owners thereof, are as  
27 follows: Beaumont Heights Project (owned by SunCal Beaumont): \$689,200 Cash; Johannson  
28 Ranch Project (owned by SunCal Johannson): \$165,427 Cash; Summit Valley Project (the portion

owned by SunCal Summit Valley): \$750,000 Cash (entire bid); Summit Valley Project (the portion owned by Kirby Estates): \$2,000 Cash; and Summit Valley Project (the portion owned by Seven Brothers): \$66,911 Cash.

**(b) Net Proceeds from Sales of Remaining Real Estate Projects to Third Party Purchasers.**

If a Remaining Real Estate Project subject to a Lehman Lender's Lien is sold to a third party purchaser (rather than sold or conveyed to a Lehman Nominee), as to the Net Cash Proceeds therefrom, the Liquidating Trustee shall hold such Net Cash Proceeds in the Plan Reserve and, as to non-Cash Net Proceeds to the Liquidating Trustee therefrom, the applicable Lehman Lenders shall be afforded a substitute Liens on such non-Cash Net Proceeds.

**(c) PRA Recovery Security Pool.**

**(i) Generally.**

The Lehman Lenders dispute or may dispute all or substantially all of the Equitable Subordination Claims and the Cross-Collateralization Claims. If, however, some recovery were afforded to the Liquidating Trustee for the Estates in respect of the Equitable Subordination Claims in an ES Action or the Cross-Collateralization Claims in a Cross-Collateralization Action (*i.e.*, a Project Related Action Recovery), and if a variety of other litigation hurdles were overcome, the values of the Remaining Real Estate Projects against which Lehman Creditors hold Secured Claims and on which Lehman Creditors are bidding and may bid possibly would be available to satisfy the Project Related Action Recovery. Thus, to secure the satisfaction of a Project Related Action Recovery and thereby protect the Estates of the Plan Debtors and their Creditors (1) certain Cash is to be held by the Liquidating Trustee in the Plan Reserve and the remainder therefrom shall be available to satisfy such Project Related Action Recovery to the extent otherwise provided under the Lehman Plan and (2) any Remaining Real Estate Project that is conveyed to a Lehman Nominee pursuant to the Lehman Plan Sale or Foreclosure Procedures shall be subject to a PRA Recovery Deed of Trust (collectively, the "PRA Recovery Security Pool.")

At any time that the Plan Reserve contains an amount equal to the Maximum PRA Recovery Amount, by voluntary payment of a Lehman Related Party or otherwise, the Liquidating

Trustee shall terminate all Reconveyance Agreements, release and reconvey to the applicable Lehman Nominees all PRA Recovery Deeds of Trust and release to the applicable Holders of the Lehman Secured Claims and all Lehman Nominees (who shall determine the allocation of the funds amongst them) all funds in the Plan Reserve in excess of the Maximum PRA Recovery Amount. At any time that all Project Related Actions that were timely Filed and Filed no later than sixty (60) days following the Effective Date either (I) have been dismissed with prejudice and/or settled or (II) the Project Related Action Recovery with respect thereto as against the applicable Lehman Related Parties has been fully satisfied, the Liquidating Trustee, upon the request of the applicable Lehman Related Parties, shall terminate all Reconveyance Agreements, release and reconvey to the applicable Lehman Nominees all PRA Recovery Deeds of Trust and release to the applicable Holders of the Lehman Secured Claims and all Lehman Nominees (who shall determine the allocation of the funds amongst them) all funds in the Plan Reserve.

(ii) **PRA Recovery Deeds of Trust.**

Upon conveyance of a Remaining Real Estate Project to one or more Lehman Nominees in connection with the Lehman Plan Sale or Foreclosure Procedures, the Lehman Lenders will cause the applicable Lehman Nominees taking title to the applicable PRA Security Project to record a PRA Recovery Deed of Trust. The Liquidating Trustee shall be the named beneficiary under any PRA Recovery Deed of Trust and, in his or her sole discretion, may delay, defer or waive receipt of the benefits or the recording thereof as to one or more Remaining Real Estate Projects. Each PRA Recovery Deed of Trust is being given solely for the purpose of creating a Lien on the applicable PRA Security Project to be part of the PRA Recovery Security Pool and nothing contained therein shall in any way restrict or interfere with the rights of the owner of such PRA Security Project, including, without limitation, such owner's right to own, manage, operate, improve, sell, convey, refinance, encumber and otherwise deal with such PRA Security Project.

Each PRA Recovery Deed of Trust shall secure the non-recourse obligation of each Lehman Nominee who is the owner of each relevant PRA Security Project to reconvey the applicable PRA Security Project to the Liquidating Trustee in the event of a Project Related Action Recovery, subject to the terms of the Reconveyance Agreements and subject to the option of the



1 Lehman Nominee to pay in Cash the amount of the Project Related Action Recovery in lieu of  
2 effectuating such reconveyance. In aggregate, the PRA Security Deeds of Trust secure an amount  
3 not in excess of the Maximum DOT Security Amount.

4 Each PRA Recovery Deed of Trust shall also provide that the applicable Lehman  
5 Nominee will not cause, through an affirmative action on its part (as opposed to any inaction or  
6 failure to act), any hazardous substances to be deposited onto the applicable PRA Security Project  
7 encumbered by such PRA Recovery Deed of Trust at any time following the acquisition of title to  
8 such PRA Security Project by such Lehman Nominee and prior to the sale of such PRA Security  
9 Project; provided, however, that the Lehman Nominee shall have no obligation to (1) clean up,  
10 remove or remediate any existing hazardous substances (including, without limitation, any asbestos,  
11 mold or petroleum products) which may be present on or within such PRA Security Project or which  
12 may be emanating therefrom as of the date of the conveyance of such property to such Lehman  
13 Nominee or (2) take any action or incur any expense to prevent hazardous substances from existing  
14 or being present on or within such PRA Security Project or from otherwise emanating therefrom  
15 except as specifically provided above (the “Negative Covenant”). If such Lehman Nominee fails to  
16 comply with the foregoing Negative Covenant for thirty (30) days following written notice and an  
17 opportunity to cure, then the Liquidating Trustee shall have the right to seek damages against  
18 Lehman ALI and Lehman Commercial, jointly and severally, and any claims arising from the pursuit  
19 of such remedies shall be treated as administrative expense claims in Lehman Commercial’s  
20 bankruptcy case and, if Lehman ALI is then subject to its own bankruptcy proceeding, Lehman ALI  
21 shall use its best efforts to afford the same administrative priority to such claims in any such  
22 bankruptcy case. Any payments made or assets seized in satisfaction of any judgment based on such  
23 damage claims shall be deposited into the Plan Reserve. In addition, if a Lehman Nominee fails to  
24 pay or cause to be paid any property taxes or assessments due and payable with respect to the PRA  
25 Security Project owned by such Lehman Nominee on or prior to the date which is six (6) months  
26 prior to the earliest date on which a foreclosure of such PRA Security Project could be effectuated  
27 for non-payment of property taxes or assessments, then the Liquidating Trustee shall have the right  
28 to make a protective advance for the payment of such taxes or assessments and to foreclose upon the

1 applicable PRA Recovery Deed of Trust encumbering such PRA Security Project in order to repay  
2 any such outstanding protective advance; provided that any proceeds of any such foreclosure sale  
3 and any interest acquired by the Liquidating Trustee in connection with any such foreclosure sale  
4 shall be deposited into the Plan Reserve pending the completion of the Project Related Actions.

5 (iii) **Reconveyance Agreements.**

6 The non-recourse performance obligations for turnover and reconveyance of each  
7 PRA Security Project secured by the applicable PRA Recovery Deed of Trust shall be in a writing  
8 (each, a "Reconveyance Agreement"), which writing is to be executed by the applicable Lehman  
9 Nominee that takes ownership of the subject PRA Security Project and shall be in a form acceptable  
10 to the Lehman Lenders or Lehman Nominee and Liquidating Trustee or as reasonably proposed by  
11 the Lehman Lenders or Lehman Nominee and approved by the Bankruptcy Court at or after the  
12 hearing on confirmation of the Lehman Plan, as may be modified after the Confirmation Date by  
13 agreement of the applicable Lehman Nominee or other owner of the applicable PRA Security Project  
14 and Liquidating Trustee or approval of the Bankruptcy Court. At a Lehman Nominee's election,  
15 such non-recourse obligations, instead may be satisfied by a Cash payment in the amount of any  
16 applicable Project Related Action Recovery.

17 The obligations to reconvey a particular PRA Security Project following the  
18 occurrence of, and in satisfaction of, a Cross-Collateralization Judgment or an ES Judgment are  
19 distinct. The reconveyance obligation with respect to an ES Judgment shall be included in each  
20 Reconveyance Agreement. The reconveyance obligation with respect to a Cross-Collateralization  
21 Judgment shall be included only in the Reconveyance Agreement related to the PRA Security  
22 Project as to which a Cross-Collateralization Claim is alleged in a Cross-Collateralization Action.  
23 The benefits of the reconveyance obligations with respect to ES Judgments, if any, are themselves to  
24 be cross-collateralized, to the extent provided herein, by virtue of the concessions being made by the  
25 Lehman Creditors to benefit Non-Settling ES Claimants as described in Section 9.8.3(b) of the Plan.  
26 A reconveyance obligation with respect to a Cross-Collateralization Judgment, if any, shall only  
27 apply with respect to the particular PRA Security Project as to which the Lien of the applicable  
28 Lehman Creditor is avoided by the Cross-Collateralization Judgment and the benefits thereof, if any,

only shall inure to the Holders of Allowed Claims against the Plan Debtor that owned such PRA Security Project as provided in Section 9.9.2 of the Plan. Nonetheless, for PRA Security Projects as to which the Reconveyance Agreement contains obligations to reconvey for both an ES Judgment and a Cross-Collateralization Judgment, the distribution priorities as to the Net Cash Proceeds from the disposition of the reconveyed PRA Security Project, set forth in Section 9.9.2 of the Plan, give priority to the Cross-Collateralization Judgment, which in theory would be setting aside the Lien as to which the related ES Judgment seeks to transfer the now extinguished benefits.

(iv) **Release of PRA Recovery Deeds of Trust.**

The PRA Recovery Deeds of Trust generally shall remain in effect pending the final settlement or determination of the Project Related Actions. Thus, all PRA Recovery Deeds of Trust shall be released and reconveyed and all Reconveyance Agreements shall be terminated upon:

(A) the dismissal, with prejudice, and/or settlement of all Project Related Actions against the applicable Lehman Related Parties, or

(B) full satisfaction of each Project Related Action Recovery as against the applicable Lehman Related Parties.

Additionally, in order to permit the Lehman Nominees holding title to the PRA Security Projects to fully utilize such properties: all of the PRA Recovery Deeds of Trust shall be released and all Reconveyance Agreements terminated at such time as the balance of funds in the Plan Reserve is equal to the Maximum PRA Recovery Amount; and the PRA Recovery Deed of Trust encumbering a particular PRA Security Project shall be released and the corresponding Reconveyance Agreement terminated upon the sale of such Project to a third party and the deposit of any Net Cash Proceeds resulting from such sale into the Plan Reserve and/or the provision of a substitute Lien on any non-Cash Net Proceeds resulting from such sale; and the PRA Recovery Deed of Trust encumbering a particular PRA Security Project shall be subordinated to the Lien of a new mortgage loan upon a refinancing of the particular PRA Security Project obtained by the applicable Lehman Nominee in its sole and absolute discretion, provided that all Net Cash Proceeds derived from such refinancing are deposited into the Plan Reserve.

Whenever Lien releases or subordinations are required, the Liquidating Trustee shall act reasonably in arranging to provide, and in executing such documents as the applicable Lehman Nominee reasonably requests to effectuate, the reconveyance in full of the PRA Recovery Deeds of Trust.

(v) **Reduction of Maximum PRA Recovery Amount.**

The Maximum PRA Recovery Amount, which serves as the maximum aggregate amount secured by the PRA Recovery Security Pool, is an amount intended to be not less than the maximum potential cash value of the Project Related Action Recovery. For the calculation of the Maximum PRA Recovery Amount, the definition thereof herein includes, unless rebutted with lower figures, presumptions that the maximum cash value of the potential Project Related Action Recovery for Cross-Collateralization Judgments is \$1.74 million and for ES Judgments is \$200 million. If, however, a Lehman Lender Files a motion with the Bankruptcy Court and provides relevant evidence, as follows, the Maximum PRA Recovery Amount shall be reduced accordingly:

(i) to replace the amount used in subparagraph (a) of the definition of Maximum PRA Recovery Amount (Section 0 of the Plan), the Bankruptcy Court must find that a lower number results upon determining (I) the lesser of (A) the maximum cash value, if any, of the Lehman Secured Claims alleged to be subject to being set aside pursuant to a Cross-Collateralization Judgment, which Secured Claims are against any of the Acton Project, Joshua Ridge Project or Tesoro Project as is conveyed to a Lehman Nominee upon a credit bid and (B) the maximum Claims (other than Claims of Lehman Creditors) against Acton Estates, SCC Communities or Tesoro (as to which Plan Debtors, there are pending Cross-Collateralization Claims in a pending Cross-Collateralization Action against a Lehman Related Party and the Project owned by such Estate has been conveyed to a Lehman Nominee pursuant to a credit bid), and (II) subtracting from such amount the value of all direct or indirect benefits to the subject Plan Debtor resulting from the subject Lehman Loan; and/or

(ii) to replace the amount used in subparagraph (b)(i) of the definition of Maximum PRA Recovery Amount (Section 0 of the Plan), the Bankruptcy Court finds that a lower number results upon determining (I) the lesser of (A) the maximum cash value of the Lehman Secured Claims in the Plan Debtors' Assets that are alleged to be subject to subordination pursuant

1 to an ES Judgment and (B) the maximum Claims (other than Claims of Lehman Creditors) against  
2 the Plan Debtors (as to which there are pending allegations in an ES Action that a Lehman Secured  
3 Claim is subject to subordination).

4 (d) **Sale or Refinance of PRA Security Projects.**

5 (i) The Lehman Nominee(s) will have full right to sell and/or refinance the  
6 PRA Security Projects in all respects after the conveyance thereof to the Lehman Nominee(s)  
7 pursuant to the Lehman Plan Sale or Foreclosure Procedures without any interference by the  
8 Liquidating Trustee, SunCal, the Trustee, the Debtors or any of their respective Affiliates or any ES  
9 Claimants or other Creditors of the applicable Plan Debtors.

10 (ii) If any particular PRA Security Project is thereafter sold by a Lehman  
11 Nominee other than to a Lehman Related Party, (a) the Liquidating Trustee shall release the PRA  
12 Recovery Deed(s) of Trust as to such PRA Security Project, (b) the Net Cash Proceeds derived from  
13 such sale shall be deposited into the Plan Reserve, and (c) the Lehman Nominee shall grant the  
14 Liquidating Trustee a substitute Lien in any non-Cash Net Proceeds received by such Lehman  
15 Nominee to become part of the PRA Recovery Security Pool and to be subject to the same terms as  
16 other PRA Recovery Deeds of Trust.

17 (iii) If any particular PRA Security Project is refinanced by the Lehman  
18 Nominee, (a) the Liquidating Trustee shall agree to subordinate the PRA Recovery Deed(s) of Trust  
19 as to such PRA Security Project so as to permit the imposition on the PRA Security Project of a new  
20 senior refinancing Lien, and (b) the Net Cash Proceeds derived from such refinancing shall be  
21 deposited into the Plan Reserve.

22 (iv) If any particular PRA Security Project is sold by a Lehman Nominee  
23 to another Lehman Related Party, then either (x) such sale may be made subject to the PRA  
24 Recovery Deed(s) of Trust (which shall be mandatory if the transferee is a Lehman Creditor Party),  
25 or (y) all of the following shall apply: (1) there shall be deposited into the Plan Reserve all Net Cash  
26 Proceeds received by the Lehman Nominee in connection with such transfer, (2) the Liquidating  
27 Trustee shall be granted a substitute Lien on any non-Cash Net Proceeds received by a Lehman  
28 Nominee in connection with such transfer and (3) a Lien either (I) against the equity interest in the

1 joint venture or similar entity of the Lehman Nominee or (II) against the most direct interest held by  
2 a Lehman Nominee, shall be granted to the Liquidating Trustee and the Lien so granted shall  
3 become part of the PRA Recovery Security Pool and be subject to the same terms as the PRA  
4 Recovery Deeds of Trust.

5 (v) As to any Remaining Real Estate Projects not sold or conveyed  
6 pursuant to the Lehman Plan Sale or Foreclosure Procedures: (i) they shall be otherwise liquidated  
7 by the Liquidating Trustee or may be abandoned or surrendered with the consent of the Lehman  
8 Lenders and after approval of the Bankruptcy Court; (ii) such Remaining Real Estate Projects may  
9 be sold free and clear of Encumbrances other than Permitted Liens for Cash, or on such other terms  
10 to which the Holder of an Allowed Secured Claim with respect thereto consents; (iii) the Holder of  
11 any such Allowed Secured Claim (including any applicable Holder of any Lehman Secured Claim)  
12 shall receive at least thirty (30) days' prior notice of any proposed sale and may elect to credit bid in  
13 response to such notice up to the full amount of its Claim for which the item being sold is collateral  
14 (without the amount bid being limited to the value of the Holder's interest in such collateral); (iv) if  
15 the Remaining Real Estate Project is sold to a third party purchaser, promptly upon receipt thereof  
16 by the Liquidating Trustee, the Net Cash Proceeds (and any non-Cash Net Proceeds) therefrom shall  
17 be paid or turned over to the Holders of Allowed Secured Claims against such Remaining Real  
18 Estate Project up to the full amount of each such Holder's Allowed Claim (or used in payment of  
19 other Claims as otherwise set forth in the Lehman Plan in respect of the treatment of such Allowed  
20 Secured Claims) and any remaining Net Cash Proceeds shall be used to pay other obligations of the  
21 applicable Plan Debtor's Estate in the priorities set forth in Section 9.9.2(b) of the Plan.

## 22 **9.8 Equitable Subordination Claims**

### 23 **9.8.1 Generally.**

24 As set forth in Section 7.6.8, ES Claimants are afforded the option to vote either for  
25 acceptance of the ES Settlement Offer and the specified benefits it provides or to have the  
26 Liquidating Trustee continue prosecution of the Equitable Subordination Claims for their potential  
27 benefit.  
28

**9.8.2 ES Settlement Offer.**

**(a) Payments to ES Settling Claimants.**

The Settling ES Claimants are to receive the ES Pro Rata Settlement Payments as and to the extent set forth in Section 7.6.8 of the Plan.

**(b) Releases and Assignments.**

In exchange for the ES Pro Rata Settlement Payments: (A) the Liquidating Trustee will issue an Estate ES Settlement Release as to each Estate in which any Settling ES Claimant holds its Allowed ES Claim; (B) each Settling ES Claimant will issue an ES Claimant Release and Assignment; and (C) if there is Estate Acceptance of the ES Settlement as to all applicable Estates of the ES Plan Debtors, the Liquidating Trustee also will dismiss (with prejudice), as to the Estates of all ES Plan Debtors, any ES Action, with each party to bear its own costs and fees.

**(c) Estate ES Settlement Release.**In exchange for the commitment of the

Lehman Lenders under the Plan to make available funding for the ES Pro Rata Settlement Payments from, among other sources, Cash Collateral of the Lehman Creditors, as of the Effective Date, the Estate of each Plan Debtor as to which there is a Settling ES Claimant, on behalf of itself and its Affiliates exclusive of other Debtors herein, shall be deemed to unconditionally, irrevocably and generally release, acquit and forever discharge, waive and relinquish any and all causes of action, actions, rights of action, suits, judgments, liens, indebtedness, damages, losses, claims, liabilities, obligations, attorneys' fees, costs, expenses and demands of every kind and character, whether known or unknown, suspected or unsuspected, disclosed or undisclosed, including without limitation any Litigation Claims, whether for damages, subordination or other remedies, and including any and any objections or defenses to Lehman Related Party's Claims, Liens, rights, or causes of action, to the extent attributable to the ES Claims of the Settling ES Claimants or to the extent that the Net Cash Litigation Recoveries therefrom would be payable in respect of the ES Claims of the Settling ES Claimants, from and against all Lehman Releasees and all and any owners of the applicable Project(s) (that were at any time owned by the Plan Debtor of the releasing Estate), including the Lehman Nominees, which owners are or were successors or assigns of the applicable Debtor, or any of them, and their subsidiaries and their respective officers, directors, employees, agents,

1 predecessors, successors, assigns, representatives, attorneys and other professionals, or their  
2 properties.

3 The releases given above include an express, informed, knowing and voluntary  
4 waiver and relinquishment to the fullest extent permitted by law of rights under Section 1542 of the  
5 California Civil Code, which reads as follows, and under any similar or comparable laws anywhere  
6 in the world:

7 A general release does not extend to claims which the creditor does not  
8 know or suspect to exist in his favor at the time of executing the  
9 release, which if known by him must have materially affected his  
10 settlement with the debtor.

11 While the Confirmation Order, without more, shall effectuate the release, waiver and  
12 relinquishment described or referenced in this section for the Lehman Releasees and successor  
13 owners of the specified Projects, in accordance herewith, the Lehman Releasees also shall be entitled  
14 to the issuance of a separate written release, waiver and relinquishment by the Liquidating Trustee in  
15 a form acceptable to the Lehman Lenders and Liquidating Trustee or as reasonably proposed by the  
16 Lehman Lenders and approved by the Bankruptcy Court at or after the hearing on confirmation of  
17 the Lehman Plan.

18 **(d) ES Claimant Release and Assignment.**

19 In exchange for the commitment of the Lehman Lenders under the Plan to make  
20 available funding for the ES Pro Rata Settlement Payments from, among other sources, Cash  
21 Collateral of the Lehman Creditors as of the Effective Date, in returning its Ballot accepting the ES  
22 Settlement Offer, each Settling ES Claimant by Vote, on behalf of itself and its Affiliates, shall be  
23 deemed to unconditionally, irrevocably and generally release, acquit and forever discharge, waive  
24 and relinquish any and all causes of action, actions, rights of action, suits, judgments, liens,  
25 indebtedness, damages, losses, claims, liabilities, obligations, attorneys' fees, costs, expenses and  
26 demands of every kind and character, whether known or unknown, suspected or unsuspected,  
27 disclosed or undisclosed, including without limitation any Litigation Claims, whether for damages,  
28 subordination or other remedies, and including any and any objections or defenses to Lehman  
Related Party's Claims, Liens, rights, or causes of action, to the extent attributable to the ES Claims  
of such Settling ES Claimant or to the extent that the Net Cash Litigation Recoveries therefrom



would be payable in respect of the ES Claims of such Settling ES Claimant (collectively, the “ES Claimant Released Claims”), from and against all Lehman Releasees and all and any owners of the applicable Project(s) (that were at any time owned by the Plan Debtor of the Estate against which the applicable Allowed ES Claim is asserted), including the Lehman Nominees, which owners are or were successors or assigns of the applicable Debtor, or any of them, and their subsidiaries and their respective officers, directors, employees, agents, predecessors, successors, assigns, representatives, attorneys and other professionals, or their properties, and, to the extent such ES Claimant Released Claims are owned by the Estate of a Plan Debtor and cannot be released by the ES Claimant, assigns to the applicable Lehman Lender (or if multiple applicable Lehman Lenders, the Lehman Lender holding the most senior Lien against the applicable Estate’s Project), all rights, benefits and interests of the Settling ES Claimant with respect to such ES Claimant Released Claims, including the Litigation Recoveries that otherwise would be due therefrom to, or attributable to the ES Claims of, the Settling ES Claimants.

The releases given above include an express, informed, knowing and voluntary waiver and relinquishment to the fullest extent permitted by law of rights under Section 1542 of the California Civil Code, which reads as follows, and under any similar or comparable laws anywhere in the world:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

While the Confirmation Order, without more, shall effectuate the release, waiver and relinquishment described or referenced in this section for the Lehman Releasees and all successor owners of the specified Projects, in accordance herewith, the Lehman Releasees also shall be entitled to the issuance of a separate written release, waiver and relinquishment by the Settling ES Claimant by Vote in the form set forth on, or attached to, the Ballot.

### **9.8.3 Continued Prosecution of Equitable Subordination Claims.**

Unless all of the Estates of the ES Plan Debtors accept the ES Settlement Offer (through the acceptance of the ES Settlement Offer by at least one-half in number and two-thirds in amount of the voting ES Claimants of each such ES Plan Debtor’s Estate), resulting in a dismissal

(with prejudice), release and settlement of all Equitable Subordination Claims as to all ES Plan Debtors' Estates, the Liquidating Trustee may continue prosecution of the Equitable Subordination Claims in an ES Action seeking any alleged damages, subordination or other remedies that may be available for the benefit of and attributable to the ES Claims of any Non-Settling ES Claimants, subject to the Plan Release and as determined by the court with jurisdiction over such actions; provided, that the PRA Recovery Security Pool will be the sole source for recovery on an ES Judgment, unless a Lehman Lender elects to pay Cash in lieu thereof.

(a) **ES Litigation Loan.**

(i) Unless the Equitable Subordination Claims in an ES Action are fully settled as to all ES Plan Debtors' Estates (*i.e.*, there is Estate Acceptance of the ES Settlement for all ES Plan Debtors' Estates), a Lehman Lender will make available to the Liquidating Trustee the ES Litigation Loan in the aggregate principal amount of up to \$1 million for the Estates of those ES Plan Debtors for which the Liquidating Trustee continues to prosecute Equitable Subordination Claims. The ES Litigation Loan will accrue interest at a 10% annual rate (compounded annually). The proceeds of the ES Litigation Loan may be used solely for the payment of ES Litigation Expenses if and only if there is no Available Cash in the Post-Confirmation Accounts to fund the ES Litigation Expenses and SunCal and its principals decline to continue paying the cost of prosecuting the Equitable Subordination Claims in an ES Action.

(ii) The ES Litigation Loan shall be made available by a Lehman Lender to the Liquidating Trustee as the ES Litigation Expenses are incurred and shall be funded no more frequently than on a monthly basis. The Liquidating Trustee shall provide the Lehman Lender with reasonable substantiation and backup (including invoices and statements from the parties to be paid) for any ES Litigation Expenses to be paid with the proceeds of the ES Litigation Loan in connection with any request to the Lehman Lender for an advance of proceeds of the ES Litigation Loan; provided, however, that the Liquidating Trustee shall not be required to provide any substantiation or backup to the Lehman Lender that discloses, directly or indirectly, information or communications that are subject to attorney-client privilege or attorney work product or contains any other privileged or confidential information or strategies of the Liquidating Trustee with respect to an ES Action.

(ix) ES Litigation Proceeds shall be made available to pay Allowed Non-Settled ES Claims only after repayment of the ES Litigation Loan, together with interest thereon at an annual, compounded rate of interest equal to 10%; provided, that such repayment may be made without any prejudice to the right of the prevailing party to seek reasonable fees and costs from the non-prevailing party in an ES Action. Such repayment shall be from sources other than Cash Collateral to which the applicable Lehman Creditor otherwise is entitled.

(ix) At the election of a Lehman Lender, (1) the ES Litigation Loan may be funded from Cash Collateral of a Lehman Creditor, (2) the ES Litigation Loan may be funded from a transfer of new Cash from a Lehman Lender or (3) a Lehman Lender may direct that the Liquidating Trustee use, for the ES Litigation Loan, funds in the form of new Cash from one or another Lehman Creditor and pay a like amount of Cash Collateral securing a Lehman Loan towards reduction of such Lehman Loan, as the Lehman Lender directs.

(b) **Concessions by Lehman Lenders' to Facilitate Collection of ES Judgments.**

Although the Lehman Lenders believe they will defeat any Equitable Subordination Claims in an ES Action, to further incentivize support of all ES Claimants for the Lehman Plan, including Non-Settling ES Claimants, the Lehman Lenders, solely in connection with and for confirmation and the effectiveness of the Lehman Plan, agree to the following in connection with entry of an ES Judgment subordinating the Lehman Secured Claims to the ES Claims, if any such judgment is entered:

(1) **Excess Values Otherwise Available to Pay the Lehman Creditors from Certain ES Plan Debtor's Projects Are to be Collateral for Equitable**

**Subordination Claims that Benefit ES Claimants of Other ES Plan Debtors.** For some particular ES Plan Debtors' Estates, the Net Cash Proceeds from the sale of their PRA Security Projects or other Assets likely would be insufficient to pay the Allowed ES Claims against those Estates and, for other particular ES Plan Debtors' Estates, such Net Cash Proceeds likely would exceed the Allowed ES Claims against their Estates. Instead of any such excess Net Cash Proceeds being available next to the Lehman Creditors, as Holders of Secured Claims or subordinated Secured Claims against those Estates, the Lehman Creditors, to their own detriment, have agreed, by virtue of permitting the PRA Security Pool to secure all ES Judgments, to voluntarily subordinate their remaining Secured Claims in any such excess values in the PRA Security Projects to any unpaid portion of an ES Judgment as to other ES Plan Debtors' Estates.

(2) **To Obtain the ES Judgment in the First Instance for Del Rio and SJD Partners, No Showing Will be Required that the Subject Estates Had Enough Value In Them to Pay their ES Claims Without Regard to Any Lehman Secured Claim.** As to the Estates of Del Rio and SJD Partners only, the Lehman Creditors will waive an objection or defense, that, even were the applicable Lehman Secured Claim ignored, there was insufficient value in those Estates to pay their Allowed ES Claims, provided that (I) all other grounds necessary to obtain an ES Judgment have been satisfied, and (II) the applicable Estate executes the Del Rio / SJD Partners Release within forty-five (45) days following the Effective Date.

**9.9 Post-Petition Expenses, Intercompany Loans and Payables and Priorities in Payment.**

**9.9.1 Post Confirmation Expenses and Intercompany Loans.**

All Post-Confirmation Expenses may be paid by the Liquidating Trustee from the Post-Confirmation Account(s) upon ten (10) days' prior written notice and opportunity to object provided to the Lehman Lenders, the Committee(s), the Holders of Lehman Disputed Secured Claim(s), or with their consent, but without further notice to other Creditors or Holders of Interests, or approval of the Bankruptcy Court. Any disputes concerning the payment of Administrative and Post-Confirmation Expenses shall be submitted to the Bankruptcy Court for resolution. To the extent readily determinable, Post-Confirmation Expenses attributable to a particular Plan Debtor

shall be paid from that Plan Debtor's Assets consistent with the provisions of the Lehman Plan. To the extent of available Assets from each Plan Debtor, other Post-Confirmation Expenses shall be payable by each Plan Debtor Pro Rata consistent with the Lehman Plan, provided that after a Plan Debtor's available Cash or Assets are exhausted, the other Plan Debtors shall absorb such Plan Debtor's share of unpaid Post-Confirmation Expenses as provided in the Lehman Plan, which shall be Pro Rata to the extent reasonably possible. To the extent one Plan Debtor advances funds on behalf of another, the Liquidating Trustee shall book a receivable for the advancing Debtor and a payable for the borrowing Debtor.

**9.9.2 Payables and Priorities in Payment.**

Recoveries from the following sources as to which there are no unsubordinated Secured Claims shall be applied in the following manner:

**(a) Funds Constituting ES Litigation Proceeds.**

ES Litigation Proceeds of a particular Estate (unless they are or may also be a Project Related Action Recovery of a particular Estate with respect to a Cross-Collateralization Judgment) shall be applied in the following order of priority until exhausted:

- (i) First, to payment of the ES Litigation Loan;
- (ii) Second, to payment of, or, in the discretion of the Liquidating Trustee, reserve for its Pro Rata share of the unpaid Lehman Post-Confirmation Loans;
- (iii) Third, to payment of, or, in the discretion of the Liquidating Trustee, reserve for the direct Post-Confirmation Expenses of such Estate and its Pro Rata share of unpaid Post-Confirmation Expenses commonly allocable among it and other Plan Debtors (not including any repayment of post-Confirmation Date intercompany payables);
- (iv) Fourth, to repayment of any post-Confirmation Date intercompany payables,
- (v) Fifth, to such Estate's Holders of Allowed Non-Settled ES Claims entitled to the ES Litigation Proceeds pursuant to the terms of the ES Judgment until paid the full amount of their Allowed ES Claims;

(vi) Sixth, to the Estates of other Holders of Allowed ES Claims entitled to the ES Litigation Proceeds pursuant to the terms of the ES Judgment, payable Pro Rata among such Estates based upon their entitled and Allowed ES Claims not paid from their Estate's own Assets, first to pay such Estate's share of the Lehman Post-Confirmation Loans and next to pay such Allowed ES Claims until paid in full; and

(vii) Seventh, to the applicable Lehman Creditors.

**(b) Various Other Funds, Including Funds Constituting a Project Related Action Recovery With Respect to a Cross-Collateralization Judgment.**

a. A Project Related Action Recovery of a particular Estate with respect to a Cross-Collateralization Judgment (unless it also may become ES Litigation Proceeds based upon a pending ES Action),

b. any Net Cash Proceeds from the sale or disposition of Remaining Other Assets or otherwise, including Net Cash Litigation Recoveries and other funds in the Post-Confirmation Accounts, and

c. any repayment of a post-Confirmation Date intercompany payable, shall be applied in the following order of priority until exhausted:

(i) First, to payment of, or, in the discretion of the Liquidating Trustee, reserve for its Pro Rata share of the Lehman Post-Confirmation Loan;

(ii) Second, to payment of, or, in the discretion of the Liquidating Trustee, reserve for the direct Post-Confirmation Expenses of such Estate and its Pro Rata share of unpaid Post-Confirmation Expenses commonly allocable among it and other Plan Debtors (not including any repayment of post-Confirmation Date intercompany payables);

(iii) Third, to repayment of any post-Confirmation Date intercompany payables,

(iv) Fourth, to any of such Estate's due and payable Allowed Administrative Claims, Allowed Tax Claims, and Allowed Priority Claims;

(v) Fifth, to pay or, in the discretion of the Liquidating Trustee, reserve for unpaid Post-Confirmation Expenses of other Debtors and their share of the unpaid Lehman Post-

Confirmation Loans (to be booked upon use as a receivable to the advancing Estate and as a payable by the borrowing Estate);

(vi) Sixth, to pay, in the discretion of the Liquidating Trustee, an accelerated payment for Tax Claims; and

(vi) Seventh, as Residual Cash to the Holders of Allowed Claims in Class 7 and Class 8 under the Plan.

(c) **Funds that Constitute Both ES Litigation Proceeds and a Project Related Action Recovery With Respect to a Cross-Collateralization Judgment.**

ES Litigation Proceeds of a particular Estate that also are a Project Related Action Recovery of such Estate with respect to a Cross-Collateralization Judgment, shall be applied in the following order of priority until exhausted:

(i) First, to payment of the ES Litigation Loan;

(ii) Second, to payment of, or, in the discretion of the Liquidating Trustee, reserve for its Pro Rata share of the unpaid Lehman Post-Confirmation Loans;

(iii) Third, to payment of, or, in the discretion of the Liquidating Trustee, reserve for the direct Post-Confirmation Expenses of such Estate and its Pro Rata share of unpaid Post-Confirmation Expenses commonly allocable among it and other Plan Debtors (not including any repayment of post-Confirmation Date intercompany payables);

(iv) Fourth, to repayment of any post-Confirmation Date intercompany payables,

(v) Fifth, to any of such Estate's due and payable Allowed Administrative Claims, Allowed Tax Claims, and Allowed Priority Claims;

(vi) Sixth, to pay or, in the discretion of the Liquidating Trustee, reserve for unpaid Post-Confirmation Expenses of other Debtors and their share of the unpaid Lehman Post-Confirmation Loans (to be booked upon use as a receivable to the advancing Estate and as a payable by the borrowing Estate);

(vi) Seventh, to such Estate's Holders of Allowed Non-Settled ES Claims entitled to the ES Litigation Proceeds pursuant to the terms of the ES Judgment until paid the full

1 amount of their Allowed ES Claims;

2 (viii) Eighth, to the Estates of other holders of Allowed ES Claims entitled  
3 to the ES Litigation Proceeds pursuant to the terms of the ES Judgment, payable Pro Rata among  
4 such Estates based upon their entitled and Allowed ES Claims not paid from their Estate's own  
5 Assets, first to pay such Estate's share of the Lehman Post-Confirmation Loans and next to pay such  
6 Allowed ES Claims until paid in full; and

7 (ix) Ninth, as Residual Cash to the Holders of Allowed Claims in Class 7  
8 and Class 8 under the Lehman Plan; and

9 (d) **Funds that May Later be Determined to be Both ES Litigation**  
10 **Proceeds and Project Related Action Recovery With Respect to a Cross-**  
11 **Collateralization Judgment.**

12 Funds that presently are known to be either, but not both, ES Litigation Proceeds of a  
13 particular Estate or a Project Related Action Recovery with respect to a Cross-Collateralization  
14 Judgment, which potentially could also become the other upon final settlement or determination of  
15 the relevant, pending Project Related Action, shall be applied in the following order of priority until  
16 exhausted:

- 17 (i) First, reserved for payment of the ES Litigation Loan;
- 18 (ii) Second, to payment of, or, in the discretion of the Liquidating  
19 Trustee, reserve for its Pro Rata share of the unpaid Lehman Post-Confirmation Loans;
- 20 (iii) Third, to payment of, or, in the discretion of the Liquidating  
21 Trustee, reserve for the direct Post-Confirmation Expenses of such Estate and its Pro Rata share of  
22 unpaid Post-Confirmation Expenses commonly allocable among it and other Plan Debtors (not  
23 including any repayment of post-Confirmation Date intercompany payables);
- 24 (iv) Fourth, to repayment of any post-Confirmation Date  
25 intercompany payables,
- 26 (v) Fifth, to be reserved and applied upon final settlement or  
27 determination of the relevant, pending Project Related Action in accordance with the above-described  
28 priorities of distribution.



**9.9.3 Allocations and Distributions Under this Section.**

For purposes of this Section 9.8.3(b)(2) of the Plan, in calculating the amount of Allowed ES Claims not paid from an Estate's own Assets for a distribution of ES Litigation Proceeds pursuant hereto, the Liquidating Trustee may ignore future expected or possible recoveries, but upon such later recoveries occurring for such Estates, the Liquidating Trustee shall recalculate the prior distribution and adjust the amount of the later distribution to ensure that the aggregate distributions are correct among entitled Holders of Allowed ES Claims.

**9.10 Plan Release.**

In exchange for the extension of credit represented by the additional Lehman Post-Confirmation Loans, the ES Settlement Offer and the delayed satisfaction of the Secured Claims of the Lehman Related Parties, as of the Effective Date, the Estate of each Plan Debtor, on behalf of itself and its Affiliates exclusive of other Debtors herein shall be deemed to unconditionally, irrevocably and generally release, acquit and forever discharge, waive and relinquish:

a. any and all causes of action, actions, rights of action, suits, judgments, liens, indebtedness, damages, losses, claims, liabilities, obligations, attorneys' fees, costs, expenses and demands of every kind and character, whether known or unknown, suspected or unsuspected, disclosed or undisclosed, including without limitation any Litigation Claims, whether for damages, subordination or other remedies, and including any and any objections or defenses to Lehman Related Party's Claims, Liens, rights, or causes of action, from and against all Lehman Releasees, or any of them, and their subsidiaries and their respective officers, directors, employees, agents, predecessors, successors, assigns, representatives, attorneys and other professionals, or their property; except

b. the following are not released, to the extent indicated:

(i) Avoidance Actions timely Filed and Filed no later than sixty (60) days following the Effective Date other than to the extent of Cross-Collateralization Claims; and

(ii) with respect to (1) all Equitable Subordination Claims in an ES Action (*i.e.*, either (A) that certain adversary proceeding Filed in the Cases and pending before the

1 Bankruptcy Court as Adversary Case No. 8:09-ap-01005 or (B) such other adversary proceeding in  
2 which Equitable Subordination Claims are asserted that is timely Filed and Filed no later than sixty  
3 (60) days following the Effective Date) and (2) those Cross-Collateralization Claims identified in the  
4 Debtors' Second Amended Disclosure Statement and asserted in a Cross-Collateralization Action  
5 (*i.e.*, an Avoidance Action against a Lehman Related Party that relates to a Cross-Collateralization  
6 Claim that is timely Filed and Filed no later than sixty (60) days following the Effective Date), each  
7 owner of each PRA Security Project shall have a non-recourse obligation to reconvey each PRA  
8 Security Project to the Liquidating Trustee if required by a Project Related Action Recovery, which  
9 obligation shall be secured by the PRA Recovery Security Pool and, at a Lehman Nominee's election,  
10 instead may be satisfied by a Cash payment in the amount of any Project Related Action Recovery.

11 The releases given above include an express, informed, knowing and voluntary  
12 waiver and relinquishment to the fullest extent permitted by law of rights under Section 1542 of the  
13 California Civil Code, which reads as follows, and under any similar or comparable laws anywhere  
14 in the world:

15 **A general release does not extend to claims which the creditor does not know or**  
16 **suspect to exist in his favor at the time of executing the release, which if known by him must**  
17 **have materially affected his settlement with the debtor.**

18 While the Confirmation Order, without more, shall effectuate the release, waiver and  
19 relinquishment described or referenced in this section for the Lehman Releasees in accordance  
20 herewith, the Lehman Releasees also shall be entitled to issuance of a separate written release,  
21 waiver and relinquishment by the Liquidating Trustee in a form acceptable to the Lehman Lenders  
22 and Liquidating Trustee or as reasonably proposed by the Lehman Lenders and approved by the  
23 Bankruptcy Court at or after the hearing on confirmation of the Lehman Plan.

24 **9.11 Entry of Final Decrees.**

25 The Liquidating Trustee shall cause the entry of a final decree in the Case of each  
26 Estate of a Plan Debtor at the earliest reasonable opportunity therefor. Such final decrees may be  
27 sought and entered individually for each Case.  
28

The Trustee, in his capacity as such, shall be discharged upon the Effective Date and his bond may be exonerated. The Liquidating Trustee and Committee shall be discharged upon consummation of the Lehman Plan and the entry of a final decree in each Case or as otherwise ordered by the Court.

## DISTRIBUTIONS

The Liquidating Trustee shall serve as the Distribution Agent for distributions due under the Lehman Plan. The Distribution Agent may employ one or more sub agents on such terms and conditions as it may agree in its discretion and pay such subagent as a Post-Confirmation Expense from the Post-Confirmation Accounts. The Distribution Agent shall not be required to provide any bond in connection with the making of any Distributions pursuant to the Lehman Plan.

(i) **Dates of Distributions.**

Any distribution required to be made on the Effective Date shall be deemed timely if made as soon as practicable after such date and, in any event, within thirty (30) days after such date. Any distribution required to be made upon a Disputed Claim becoming an Allowed Claim and no longer being a Disputed Claim shall be deemed timely if made as soon as practicable thereafter.

Neither the Lehman Related Parties, the Lehman Nominees, the Liquidating Trustee, their Affiliates, nor any of their employees, members, officers, directors, agents, attorneys or other professionals shall be liable for (i) any acts or omissions (except for gross negligence or willful misconduct) in connection with implementing the Distribution provisions of the Lehman Plan and the making or withholding of Distributions pursuant to the Lehman Plan, or (ii) any change in the value of Distributions made pursuant to the Lehman Plan resulting from any delays in making such Distributions in accordance with the Lehman Plan's terms (including but not limited to any delays

1 caused by the resolution of Disputed Claims).

2 **10.3 Old Instruments and Securities.**

3 (i) Surrender and Cancellation of Instruments and Securities.

4 As a condition to receiving any distribution pursuant to the Lehman Plan in respect of  
5 a Claim, each Person holding any note or other instrument or security evidencing such Claim must  
6 surrender such instrument or security to the Distribution Agent, if requested.

7 (ii) Cancellation of Liens.

8 Except as otherwise provided in the Lehman Plan, any Lien securing any Secured  
9 Claim shall be deemed released and discharged, and the Person holding such Secured Claim shall be  
10 authorized and directed to release any collateral or other property of the Liquidating Trustee  
11 (including, without limitation, any Cash Collateral) held by such Person and to take such actions as  
12 may be requested by the Liquidating Trustee to evidence the release of such Lien, including, without  
13 limitation, the execution, delivery and Filing or recording of such releases as may be requested by  
14 the Liquidating Trustee.

15 **10.4 De Minimis Distributions and Fractional Shares.**

16 No Cash payment of less than ten dollars (\$10) shall be made by the Liquidating  
17 Trustee to any Holder of Claims unless a request therefor is made in writing to the Liquidating  
18 Trustee. Whenever payment of a fraction of a cent would otherwise be called for, the actual payment  
19 shall reflect a rounding down of such fraction to the nearest whole cent. Any Cash or other property  
20 that is not distributed as a consequence of this section shall, after the last distribution on account of  
21 Allowed Claims in the applicable Class, be treated as "Unclaimed Property" under the Lehman Plan.

22 **10.5 Delivery of Distributions.**

23 Except as provided in the Lehman Plan with respect to Unclaimed Property,  
24 distributions to Holders of Allowed Claims and Allowed Administrative Claims shall be distributed  
25 by mail as follows: (1) with respect to each Holder of an Allowed Claim that has Filed a Proofs of  
26 Claim, at the address for such Holder as maintained by the official claims agent for the Plan Debtors;  
27 (2) with respect to each Holder of an Allowed Claim that has not Filed a Proofs of Claim, at the  
28 address reflected on the Schedules Filed by the Plan Debtors, provided, however, that if the Plan

1 Debtors or the Liquidating Trustee has received a written notice of a change of address for such  
2 Holder, the address set forth in such notice shall be used; or (3) with respect to each Holder of an  
3 Allowed Administrative Claim, at such address as the Holder may specify in writing.

#### 4 **10.6 Unclaimed Property.**

5 If either (1) the Distribution of Cash to the Holder of any Allowed Claim is returned  
6 to the Liquidating Trustee (*e.g.*, as undeliverable) and the check or other similar instrument or  
7 distribution remains unclaimed for one hundred twenty (120) days from sending or (2) the check or  
8 other similar instrument used for the Distribution to the Holder of any Allowed Claim remains  
9 uncashed for one hundred twenty (120) days from sending; or (3) the Liquidating Trustee does not  
10 have an address for a Holder of any Allowed Claim on the date such Distribution first could have  
11 been made under the Lehman Plan and for one hundred twenty (120) days thereafter, then such  
12 applicable Distribution shall be Unclaimed Property under the Lehman Plan and the Liquidating  
13 Trustee shall be relieved of making such Distribution or any further Distribution to such Holder of  
14 such Allowed Claim unless and until the Liquidating Trustee is notified in writing of the then current  
15 address of such Holder of an Allowed Claim. Subject to the remainder of this Section and the  
16 following section, Unclaimed Property shall remain in the possession of the Liquidating Trustee  
17 pursuant to this Section, and shall be set aside and (in the case of Cash) held in a segregated, interest  
18 bearing account to be maintained by the Distribution Agent until such time as the subject  
19 Distribution becomes deliverable. Nothing contained in the Lehman Plan shall require the  
20 Liquidating Trustee or any other Person to attempt to locate the Holder of an Allowed Claim as to  
21 which there is Unclaimed Property.

#### 23 **10.7 Disposition of Unclaimed Property.**

24 If the Person entitled thereto notifies the Liquidating Trustee of such Person's Claim  
25 to a Distribution of Unclaimed Property within ninety (90) days following such Person's initial  
26 Distribution Date, the Unclaimed Property distributable to such Person, together with any interest or  
27 dividends earned thereon, shall be paid or distributed to such Person as soon as practical. Any  
28 Holder of an Allowed Claim that does not assert a Claim in writing for Unclaimed Property held by

the Liquidating Trustee within ninety (90) days after the Holders' initial Distribution Date shall no longer have any Claim to or Interest in such Unclaimed Property, and shall be forever barred from receiving any Distributions under the Lehman Plan or otherwise from the Liquidating Trustee. In such cases, any property held for Distribution on account of such Claims shall become Available Cash and deposited into the Post-Confirmation Account of the Plan Debtor's Estate against which the applicable Allowed Claim was asserted.

## **XI.**

### **OBJECTIONS TO CLAIMS AND DISPUTED CLAIMS**

#### **11.1 Standing for Objections to Claims.**

The Liquidating Trustee and Lehman Lenders shall have the sole and exclusive right to File and resolve for the Estates objections to Claims and their status as ES Claims (provided, however, that the Lehman Lenders shall not be allowed to resolve for the Estates objections to Claims of any Lehman Related Party). Any objection to a Claim or its status as an ES Claim shall be Filed with the Bankruptcy Court and served on the Person holding such Claim on or before the applicable Claims Objection Deadline, except as provided in the Lehman Plan.

#### **11.2 Treatment of Disputed Claims.**

##### **(i) No Distribution Pending Allowance.**

If any portion of a Claim is a Disputed Claim, no payment or distribution provided for under the Lehman Plan shall be made on account of such Claim unless expressly provided hereunder or unless and until such Claim becomes an Allowed Claim or Lien. No distribution shall be made under the Lehman Plan on account of any Disputed Claims. A Claim that has not been Allowed by a Final Order of the Bankruptcy Court and as to which the objection deadline has not passed, including as to its status as an ES Claim, may be treated by the Liquidating Trustee as a Disputed Claim and, absent the agreement of the Lehman Lenders, the Liquidating Trustee shall so treat any such Secured Claim not expressly Allowed under the Plan and any ES Claim to which a payment otherwise would be due under subparagraph (c) of Sections 7.6.8 of the Plan.

##### **(ii) Distribution After Allowance.**

On the next Distribution Date following the date on which a Disputed Claim becomes

1 an Allowed Claim and is no longer a Disputed Claim, the Distribution Agent shall distribute to the  
2 Person holding such Claim any Cash that would have been distributable to such Person if on the  
3 initial Distribution Date such Claim had been an Allowed Claim and not a Disputed Claim.

4 (iii) Reserves for Disputed Claims.

5 In the event that Disputed Claims are pending, the Liquidating Trustee shall establish  
6 reasonable reserves, including the Plan Reserve for such Disputed Claims. The Distribution Agent  
7 may move the Bankruptcy Court for approval of its determination to reserve certain amounts.

8 **XII.**

9 **EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

10 **12.1 Executory Contracts Being Assumed.**

11 As of the Effective Date, the Liquidating Trustee shall assume and, as of and  
12 conditioned upon the occurrence of the sale or conveyance of the related Remaining Real Estate  
13 Projects in accordance with the Lehman Plan Sale or Foreclosure Procedures, shall assign to the  
14 appropriate Lehman Nominee(s) or third party purchaser of each Remaining Real Estate Project, all  
15 of the executory contracts and unexpired leases on an **Exhibit "A"**, to be attached to the Lehman  
16 Plan on or before the Confirmation Date. With the consent of the Lehman Creditors, any required  
17 cure payments shall be made by the Liquidating Trustee from Cash Collateral of a Lehman Related  
18 Party on hand as of the Effective Date. The Lehman Lenders may add any executory contract or  
19 unexpired leases to these exhibits or delete any contract or lease therefrom up to and including the  
20 Confirmation Date. However, if **Exhibit "A"** first is Filed and served on affected contract or lease  
21 parties, or any amendments thereto are Filed and so served, later than twenty-four (24) days before  
22 the Confirmation Date, then, the affected contract or lease parties shall have at least fifteen (15) days  
23 from the date of service of the amendments to serve a written objection to the same on the Lehman  
24 Lenders. Upon the receipt of any such objection, the Lehman Lenders shall promptly set a hearing  
25 on the same, and the assumption or rejection of the affected contract or lease will be delayed until  
26 the Court makes a determination on this issue. To the extent that an executory contract or unexpired  
27 lease has previously been assumed by a Plan Debtor pursuant to an order of the Court, such  
28 assumption shall not be affected by the Lehman Plan. The assumption of any contracts or leases

pursuant to the provisions of the Lehman Plan shall be only to the extent that such assumed contracts or leases constitute executory contracts and unexpired leases within the meaning of Section 365 of the Bankruptcy Code. Inclusion of a matter in **Exhibit “A”** does not constitute an admission by the Plan Debtors or the Liquidating Trustee that (i) such matter is an executory contract or unexpired lease within the meaning of Section 365 of the Bankruptcy Code, (ii) the Plan Debtors, Trustee or Liquidating Trustee must assume such matter in order to continue to receive or retain rights, benefits, or performance thereunder or that any Claim under such matter must be paid or default cured if it is not an executory contract or unexpired lease, or (iii) such matter is a valid contract or lease. Any contract or lease assumed pursuant to the Lehman Plan shall be assumed as previously amended or otherwise modified by the parties thereto, whether before or after the Petition Date.

#### **12.2 Executory Contracts Being Rejected.**

As of the Effective Date, the Plan Debtors, Trustee or Liquidating Trustee, as appropriate, shall reject all of their executory contracts and unexpired leases other than those executory contracts or unexpired leases listed on **Exhibit “A”** to the Lehman Plan that are expressly assumed under the Lehman Plan.

#### **12.3 Retention of Property Rights by Lehman Nominees or Liquidating Trustee.**

To the extent that a matter that provides the Plan Debtors or their Estates with property rights does not constitute an executory contract or unexpired lease, or the Plan Debtors have obtained property rights under the executed portion of an executory contract or unexpired lease, rejection shall not constitute an abandonment by the Plan Debtors, the Lehman Nominees or the Liquidating Trustee of any such property rights.

#### **12.4 Bar Date for Rejection Damages.**

Any Claim arising out of the rejection of an executory contract or unexpired lease under the Lehman Plan shall be forever barred and shall not be enforceable against the Plan Debtors, their Estates, the Liquidating Trustee, their Affiliates, their successors, or their properties, and shall not be entitled to any distribution under the Lehman Plan, unless a Proof of Claim for such Claim is Filed and served on the Plan Debtors, or the Liquidating Trustee within thirty (30) days after the



1 earlier of (a) the date of entry of the order of the Bankruptcy Court approving the rejection of the  
2 executory contract or unexpired lease, or (b) the Confirmation Date.

3 **12.5 Cure Statements.**

4 Any party whose executory contract or unexpired lease is assumed under the terms of  
5 the Lehman Plan must File and serve on the Plan Debtors, the Trustee, the Liquidating Trustee and  
6 the Lehman Lenders a statement within thirty (30) days after the Confirmation Date itemizing all  
7 charges and other costs that the party contends must be paid in order to cure any defaults upon the  
8 assumption of the contract or lease (the "Cure Statement"). Failure to timely File a Cure Statement  
9 shall constitute a waiver of any cure claim and of any defaults occurring prior to the Confirmation  
10 Date. If the Plan Debtors, the Committee(s), the Liquidating Trustee or the Lehman Lenders do not  
11 File an objection to the Cure Statement within the later of thirty (30) days after the Effective Date  
12 and thirty (30) days after the receipt of the Cure Statement by all of the required notice parties, the  
13 Liquidating Trustee will pay the amount reflected on the Cure Statement. If there is a timely  
14 objection to the Cure Statement that cannot be resolved with the claimant, the Lehman Lenders may  
15 either 1) elect within forty-five (45) days after the Cure Statement is Filed to have the contract  
16 rejected, or 2) ask the Court to promptly set a hearing with respect to the objection. If such an  
17 objection is Filed, any cure amount payable upon the assumption of the executory contract or  
18 unexpired lease shall be due and payable on or before the fifteenth (15th) day after the entry of a  
19 Final Order fixing the cure amount and then only in the amount fixed by such order.

20 **12.6 Changes in Rates Subject to Regulatory Commission Approval.**

21 The Plan Debtors are not subject to governmental regulatory commission approval of  
22 their rates.

23 **XIII.**

24 **BEST INTEREST OF CREDITORS TEST**

25 Pursuant to Section 1129(a)(7) of the Bankruptcy Code, a plan cannot be confirmed  
26 unless the Bankruptcy Court determines that Distributions under the Lehman Plan to all Holders of  
27 Claims and Interests who have not accepted the Lehman Plan and whose Claims are classified in  
28 Classes that are impaired under the Lehman Plan, are not less than those which they would receive in

1 a liquidation under Chapter 7 of the Bankruptcy Code (referenced herein as the “Best Interests  
2 Test”).

3 The Best Interests Test must be satisfied even if the Lehman Plan is accepted by each  
4 impaired Class of Claims and if any Holder of an Allowed Claim objects to the Lehman Plan on  
5 such basis. The Best Interests Test requires the Bankruptcy Court to find either that (i) all Holders of  
6 Claims in an impaired Class of Claims have accepted the Lehman Plan, or (ii) the Lehman Plan  
7 provides each Holder of Allowed Claims of an impaired Class who has not accepted the Lehman  
8 Plan with a recovery of property of a value, as of the effective date of the Lehman Plan, that is not  
9 less than the amount that such Holder would receive if the Debtor were liquidated under Chapter 7  
10 of the Bankruptcy Code.

11 The Lehman Plan contemplates the orderly sale and liquidation by the Liquidating  
12 Trustee (nominated by the Committees) of all of the Remaining Real Estate Projects pursuant to the  
13 Lehman Plan Sale or Foreclosure Procedures. As more fully set forth in Section 9.7.2(a)(iv), the  
14 Lehman Lenders are making Initial Bids for most of the Remaining Real Estate Projects which bids  
15 are in all cases equal to the appraised values obtained by the Lehman Lenders and set forth at  
16 Section 3.4 herein. In certain other cases (where either the Lehman Lenders Liens are subject to a  
17 Cross-Collateralization Claim or the Lehman Lenders have a Lien on the equity interest of the entity  
18 that owns a particular Remaining Real Estate Project, rather than the Project itself), the Lehman  
19 Lenders are making Contingent Bids based upon the Debtors’ value estimates as set forth in  
20 Section 3.4 herein. The Lehman Plan Sale or Foreclosure Procedures are designed to enable the  
21 Liquidating Trustee to obtain the highest and best value for the Remaining Real Estates Asset, within  
22 a reasonably practicable period of time. Given that the Initial Bids are in all cases higher than the  
23 Debtors’ estimate of value for the Remaining Real Estate Projects and given the possibility that other  
24 third-party bidders may present bids that are higher and better than the Initial Bids (or, if applicable,  
25 the Contingent Bids), there is no reason to believe that the Lehman Plan Sale or Foreclosure  
26 Procedures will generate less of a recovery to the Estates and their Creditors than a hypothetical  
27 Chapter 7 liquidation as of the Effective Date of the Lehman Plan.

28 Further, as more fully set forth at page 130 of the Elieff Disclosure Statement, the

Debtors believe that with the exception of Creditors of Seven Brothers, Kirby Estates, SunCal Beaumont and SunCal Johansson (whose Allowed Unsecured Claims have been estimated by the Debtors to equal \$60,288; \$1,744; \$626,545; and \$150,388, respectively), if the Equitable Subordination Claims are unsuccessful, none of the Creditors of any of the Debtors will receive any recovery in a Chapter 7 liquidation.

Based upon both the Debtors' opinion of value and, where available, the Lehman Lenders' appraised values, a liquidation of the respective Assets of Seven Brothers, Kirby Estates, SunCal Beaumont and SunCal Johansson should provide more than enough net proceeds to satisfy in full the estimated general unsecured claims against the Debtors under the Lehman Plan. Further, the Holders of Allowed ES Claims are estimated to receive a distribution of at least approximately 6.6% under the Lehman Plan, more than they would receive in a Chapter 7 liquidation. Furthermore, to the extent that ES Claimants neither accept, nor are deemed to have accepted, the ES Settlement Offer, the Lehman Plan provides funding for continued prosecution of the Equitable Subordination Claims in the ES Action, creating the likelihood of a higher recovery for ES Claimants, to the extent the Equitable Subordination Claims have any validity, than would be afforded in a Chapter 7 liquidation. Finally, as noted above, if the Lehman Plan is confirmed, the Lehman enders have made significant concessions which, all other things being equal, will enhance possible recoveries on any litigation brought by the Liquidating Trustee against the Lehman Lenders that is not released pursuant to confirmation of the Lehman Plan.

#### **XIV.**

#### **PLAN FEASIBILITY**

In order to confirm the Lehman Plan, the Bankruptcy Court must find that confirmation of the Lehman Plan is not likely to be followed by the liquidation or the need for further financial reorganization. This requirement is imposed by Section 1129(a)(11) of the Bankruptcy Code and is generally referred to as the "feasibility" requirement. The Lehman Creditors are consenting to the use of their Cash Collateral held with the Debtors, and the Lehman Lenders are making an additional loan commitment of \$5 million in order to fund, confirm and implement the Lehman Plan. The Debtors have estimated that there are at least \$6.5 million of

Administrative Claims and Priority Claims which will need to be satisfied on, or in connection with, confirmation of any plan of reorganization of the Debtors. The Lehman Lenders believe that the combination of Cash Collateral and the Lehman Post-Confirmation Loan will provide more than adequate funds for the Lehman Plan to become effective and to be implemented.

## XV.

### **EFFECT OF CONFIRMATION OF THE LEHMAN PLAN**

Except as otherwise expressly provided in the Lehman Plan, the documents executed pursuant to the Lehman Plan, or the Confirmation Order, on and after the Effective Date, all Persons and Entities who have held, currently hold, or may hold a debt, Claim, or Interest against the Plan Debtors (including but not limited to States and other governmental units, and any State official, employee, or other entity acting in an individual or official capacity on behalf of any State or other governmental units) shall be permanently enjoined from: (a) taking any of the following actions on account of any such debt, Claim, or Interest: (1) commencing or continuing in any manner any action or other proceeding against the Plan Debtors and the Liquidating Trustee, their successors, or their property; (2) enforcing, attaching, executing, collecting, or recovering in any manner any judgment, award, decree, or order against the Plan Debtors or the Liquidating Trustee, their successors, or their property; (3) creating, perfecting, or enforcing any Lien or encumbrance against the Plan Debtors or the Liquidating Trustee, their successors, or their property; (4) asserting any set off, right of subrogation, or recoupment of any kind against any obligation due the Plan Debtors or the Liquidating Trustee, their successors, or their property; and (5) commencing or continuing any action, in any manner, in any place that does not comply with or is inconsistent with the provisions of the Lehman Plan; and (b) taking any of the following actions on account of any Claims or rights of action that are revested in, or transferred to, the Liquidating Trustee as of the Effective Date or under the Lehman Plan (to the extent one or more Plan Debtors' Estates first held such claim or rights of action or held the right to assert such claim or right of action after the Petition Date), including, without limitation: (1) asserting such Claims or rights of action against nondebtor third parties; and (2) commencing or continuing in any manner any action or other proceeding of any kind with respect to such claims or rights of action. Any person or entity injured by any willful violation

1 of such injunction shall recover actual damages, including costs and attorneys' fees, and, in  
2 appropriate circumstances, may recover punitive damages from the willful violator.

3 **XVI.**

4 **LIMITATION OF LIABILITY**

5 **16.1 No Liability for Solicitation or Participation.**

6 As specified in Section 1125(e) of the Bankruptcy Code, entities that solicit  
7 acceptances or rejections of the Lehman Plan and/or that participate in the offer, issuance, sale, or  
8 purchase of securities offered or sold under the Lehman Plan, in good faith and in compliance with  
9 the applicable provisions of the Bankruptcy Code, shall not be liable, on account of such solicitation  
10 or participation, for violation of any applicable law, rule, or regulation governing the solicitation of  
11 acceptances or rejections of the Lehman Plan or the offer, issuance, sale, or purchase of securities.

12 **16.2 Limitation of Liability.**

13 Effective as of the Effective Date, none of the Liquidating Trustee, the Lehman  
14 Related Parties or their respective Affiliates, nor any of their respective members, officers, directors,  
15 employees and other agents, advisors, attorneys and accountants shall have or incur any liability to  
16 any Holder of any Claim or Interest or any other Person for any act or omission in connection with  
17 or arising out of the negotiation, preparation and pursuit of confirmation of the Lehman Plan, the  
18 Lehman Disclosure Statement, the consummation of the Lehman Plan, the administration of the  
19 Lehman Plan, the Cases or the property to be distributed under the Lehman Plan except: (a) the  
20 Liquidating Trustee shall be liable contractually for the performance of obligations assumed or  
21 imposed under or by the Lehman Plan; (b) for liability based on willful misconduct as finally  
22 determined by a Final Order of the Bankruptcy Court; and (c) for gross negligence in connection  
23 with implementing the Distribution provisions of the Lehman Plan and the making or withholding of  
24 Distributions pursuant to the Lehman Plan. Each of the Liquidating Trustee, Lehman Related Parties  
25 and their respective Affiliates, and each of their respective officers, directors, employees and other  
26 agents, advisors, attorneys and accountants) shall be entitled to rely, in every respect, upon the  
27 advice of counsel with respect to their duties and responsibilities under or with respect to the  
28 Lehman Plan.

**XVII.**

**CONDITIONS TO CONFIRMATION AND  
EFFECTIVENESS OF THE LEHMAN PLAN**

**17.1 Conditions Precedent to Plan Confirmation.**

The following are conditions precedent to Confirmation of the Lehman Plan: (a) the Bankruptcy Court shall have entered the Confirmation Order; and (b) the Lehman Settlement Approval shall be represented by a Final Order.

**17.2 Conditions Precedent to Plan Effectiveness.**

The following shall be conditions precedent to the effectiveness of the Lehman Plan and the occurrence of the Effective Date.

(a) The Confirmation Order shall be a Final Order in form and substance reasonably satisfactory to the Lehman Lenders.

(b) All agreements and instruments contemplated by, or to be entered into pursuant to, the Lehman Plan, including, without limitation, each of the documents necessary for consummation of the Lehman Plan, shall have been duly and validly executed and delivered by the parties thereto and all conditions to their effectiveness shall have been satisfied or waived other than the occurrence of the Effective Date.

**XVIII.**

**RETENTION OF JURISDICTION**

Notwithstanding the entry of the Confirmation Order or the occurrence of the Effective Date, the Bankruptcy Court shall not be limited under the Lehman Plan and the Bankruptcy Court's jurisdiction shall apply to the fullest extent possible under applicable law.

**XIX.**

**MODIFICATION OF PLAN**

**19.1 Modification of Plan.**

At any time prior to confirmation of the Lehman Plan, the Lehman Lenders may supplement, amend or modify the Lehman Plan. After confirmation of the Lehman Plan, the Lehman Lenders or Liquidating Trustee with the consent of the Lehman Lenders may (x) apply to the

1 Bankruptcy Court, pursuant to Section 1127 of the Bankruptcy Code, to modify the Lehman Plan;  
2 and (y) apply to the Bankruptcy Court to remedy defects or omissions in the Lehman Plan or to  
3 reconcile inconsistencies in the Lehman Plan.

4 **19.2 Nonconsensual Confirmation.**

5 In the event that any impaired Class of Claims or Interests shall fail to accept the  
6 Lehman Plan in accordance with Section 1129(a)(8) of the Bankruptcy Code, Lehman Proponents (i)  
7 may request that the Bankruptcy Court confirm the Lehman Plan in accordance with Section 1129(b)  
8 of the Bankruptcy Code, and (ii) in accordance with the Lehman Plan, and may modify the Lehman  
9 Plan in accordance with Section 1127(a) of the Bankruptcy Code.

10 **XX.**

11 **MISCELLANEOUS**

12 **20.1 Payment of Statutory Fees.**

13 All quarterly fees due and payable to the Office of the United States Trustee pursuant  
14 to Section 1930(a)(6) of Title 28 of the United States Code with respect to the Plan Debtors shall be  
15 paid in full on or before the Effective Date, or, to the extent such quarterly fees are disputed, an  
16 adequate reserve shall have been established and set aside for payment in full thereof, as required by  
17 Section 1129(a)(12) of the Bankruptcy Code. The Liquidating Trustee shall remain responsible for  
18 timely payment of quarterly fees due and payable after the Effective Date with respect to the Plan  
19 Debtors until each applicable Plan Debtor's Case is closed, to the extent required by Section  
20 1930(a)(6) of Title 28 of the United States Code.

21 **20.2 Payment Dates.**

22 Whenever any payment or distribution to be made under the Lehman Plan shall be  
23 due on a day other than a Business Day, such payment or distribution shall instead be made, without  
24 interest, on the immediately following Business Day.

25 **20.3 Headings.**

26 The headings used in the Lehman Disclosure Statement and in the Lehman Plan are  
27 inserted for convenience only and neither constitutes a portion of the Lehman Disclosure Statement  
28 or the Lehman Plan nor in any manner affect the construction of the provisions of the Lehman

1 Disclosure Statement or the Lehman Plan.

2 **20.4 Other Documents and Actions.**

3 The Liquidating Trustee may execute such other documents and take such other  
4 actions as may be necessary or appropriate to effectuate the transactions contemplated under the  
5 Lehman Plan.

6 **20.5 Notices.**

7 All notices and requests in connection with the Lehman Disclosure Statement and the  
8 Lehman Plan shall be in writing and shall be hand delivered or sent by mail addressed to:

9 Edward Soto, Esq.  
10 Nellie P. Camerik, Esq.  
11 Weil, Gotshal & Manges LLP  
12 1395 Brickell Avenue  
13 Suite 1200  
14 Miami, FL 33131

15 and

16 Shai Y. Waisman, Esq.  
17 Weil, Gotshal & Manges LLP  
18 767 Fifth Avenue  
19 New York, NY 10153-0119

20 **With copies to:**

21 Richard M. Pachulski, Esq.  
22 Dean A. Ziehl, Esq.  
23 Robert B. Orgel, Esq.  
24 Pachulski Stang Ziehl & Jones LLP  
25 10100 Santa Monica Blvd., 11<sup>th</sup> Fl.  
26 Los Angeles, CA 90067

27 All notices and requests to any Person holding of record any Claim or Interest shall be  
28 sent to them at their last known address or to the last known address of their attorney of record. Any  
such Person may designate in writing any other address for purposes of this Section, which  
designation will be effective on receipt.

29 **20.6 Governing Law.**

30 Unless a rule of law or procedure is supplied by federal law (including the  
31 Bankruptcy Code and Bankruptcy Rules), the laws of the State of California (without reference to its  
32 conflict of law rules) shall govern the construction and implementation of the Lehman Plan and any  
33 agreements, documents, and instruments executed in connection with the Lehman Plan, unless



otherwise specifically provided in such agreements, documents, or instruments.

**20.7 Binding Effect.**

The Lehman Plan and all rights, duties and obligations thereunder shall be binding upon and inure to the benefit of the Lehman Creditors, the Plan Debtors, the Liquidating Trustee, Holders of Claims, Holders of Interests, and their respective successors and assigns.

**20.8 Successors and Assigns.**

The rights, benefits, and obligations of any entity named or referred to in the Lehman Plan shall be binding on, and shall inure to the benefit of, the heirs, executors, administrators, successors, and assigns of such entity.

**20.9 Severability of Plan Provisions.**

If, prior to the Confirmation Date, any term or provision of the Lehman Plan is held by the Bankruptcy Court to be illegal, impermissible, invalid, void or unenforceable, or otherwise to constitute grounds for denying confirmation of the Lehman Plan, the Bankruptcy Court shall, with the consent of the Lehman Proponents, have the power to interpret, modify or delete such term or provision (or portions thereof) to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be operative as interpreted, modified or deleted. Notwithstanding any such interpretation, modification or deletion, the remainder of the terms and provisions of the Lehman Plan shall in no way be affected, impaired or invalidated by such interpretation, modification or deletion.

**20.10 No Waiver.**

The failure of the Plan Debtors, Liquidating Trustee, Committee or Lehman Lenders or any other Person to object to any Claim for purposes of voting shall not be deemed a waiver of the Committee(s)', the Plan Debtors', the Liquidating Trustee's or the Lehman Lenders' right to object to or examine such Claim, in whole or in part.

**20.11 Inconsistencies.**

In the event the terms or provisions of the Lehman Disclosure Statement are inconsistent with the terms and provisions of the Lehman Plan or documents executed in connection

1 with the Lehman Plan, the terms of the Lehman Plan shall control.

2 **20.12 Exemption from Certain Transfer Taxes and Recording Fees.**

3 Pursuant to Section 1146(c) of the Bankruptcy Code, any transfers from a Plan Debtor  
4 or its Estate to the Liquidating Trustee or to any other Person or entity pursuant to the Lehman Plan,  
5 or any agreement regarding the transfer of title to or ownership of any of the Plan Debtors' real or  
6 personal property or of any other interest in such property (including, without limitation, a security  
7 interest), including, without limitation, transfers or sales pursuant to the Lehman Plan Sale or  
8 Foreclosure Procedures or Reconveyance Agreements will not be subject to any document recording  
9 tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate  
10 transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, or other  
11 similar tax or governmental assessment, and the Confirmation Order will direct the appropriate state  
12 or local governmental officials or agents to forego the collection of any such tax or governmental  
13 assessment and to accept for filing and recordation any of the foregoing instruments or other  
14 documents without the payment of any such tax or governmental assessment.

15 **20.13 Post-Confirmation Status Report.**

16 By the earlier of 180 days following the entry of the Confirmation Order a status  
17 report shall be Filed with the Court explaining what progress has been made toward consummation  
18 of the confirmed Plan, which report shall be Filed by the Liquidating Trustee, if the Effective Date  
19 occurs within 120 days following the entry of the Confirmation Order and, otherwise, by the Lehman  
20 Lenders. The status report shall be served on the United States Trustee, the list of twenty largest  
21 unsecured creditors Filed by the Debtors or Trustee for the jointly administered Cases of the  
22 Debtors, the Lehman Creditors, the Liquidating Trustee and those parties who have requested special  
23 notice. Unless otherwise ordered, further status reports shall be Filed every 180 days and served on  
24 the same entities.

25 **20.14 Post-Confirmation Conversion/Dismissal.**

26 A creditor or party in interest may bring a motion to convert or dismiss any Case of a  
27 Plan Debtor under § 1112(b), after the Lehman Plan is confirmed, if there is a default in performing  
28 the Lehman Plan, subject to the right of any party in interest to object to such motion. If the Court

orders any of the Cases converted to Chapter 7 after the Lehman Plan is confirmed, then all property that had been property of the Chapter 11 estate, and that has not been disbursed pursuant to the Lehman Plan, will revert in the Chapter 7 estate. The automatic stay will be reimposed upon the revested property, but only to the extent that relief from stay was not previously authorized by the Court during this case.

#### **20.15 Final Decree.**

Once a Plan Debtor's Estate has been fully administered, as referred to in Bankruptcy Rule 3022, the Liquidating Trustee, or other party as the Court shall designate in the Confirmation Order, shall File a motion with the Court to obtain a final decree to close the Case of such Plan Debtor.

### **XXI.**

#### **CERTAIN UNITED STATES FEDERAL INCOME TAX CONSEQUENCES OF THE LEHMAN PLAN**

The following discussion summarizes certain United States federal income tax consequences of the implementation of the Lehman Plan to certain Holders of Claims. The following summary does not address the United States federal income tax consequences to (i) Holders of Claims who are unimpaired or otherwise entitled to payment in full in Cash under the Lehman Plan or (ii) Holders of Interests as they are deemed to reject the Plan.

The following summary is based on the Internal Revenue Code of 1986 and all rules and treasury regulations promulgated thereunder ("Tax Code"), judicial decisions, and published administrative rules and pronouncements of the Internal Revenue Service ("IRS"), all as in effect on the date hereof. Changes in such rules or new interpretations thereof may have retroactive effect and could significantly affect the United States federal income tax consequences described below.

The United States federal income tax consequences of the Lehman Plan are complex and are subject to significant uncertainties. The Lehman Proponents have not requested a ruling from the IRS or an opinion of counsel with respect to any of the tax aspects of the Lehman Plan. Thus, no assurance can be given as to whether the IRS will successfully assert alternative positions from those set forth herein or the interpretation that the IRS will adopt. In addition, this summary

generally does not address foreign, state or local tax consequences of the Lehman Plan, nor does it address the United States federal alternative minimum or federal income tax consequences of the Lehman Plan to special classes of taxpayers (such as foreign taxpayers, broker-dealers, banks, mutual funds, insurance companies, other financial institutions, small business investment companies, regulated investment companies, tax-exempt organizations (including, without limitation, certain pension funds), persons holding a Claim as part of a constructive sale, straddle or other integrated transaction, and investors in pass-through entities, including partnerships). If a partnership (or other entity taxed as a partnership) holds a Claim, the tax treatment of a partner in the partnership will generally depend upon the status of the partner and upon the activities of the partnership.

*Accordingly, the following summary of certain United States federal income tax consequences is for informational purposes only and is not a substitute for careful tax planning and advice based upon the individual circumstances pertaining to a holder of a Claim.*

**IRS Circular 230 Notice:** *To ensure compliance with IRS Circular 230, Holders of Claims are hereby notified that: (a) any discussion of United States federal tax issues contained or referred to in this Disclosure Statement is not intended or written to be used, and cannot be used, by holders of Claims for the purpose of avoiding penalties that may be imposed on them under the Tax Code; (b) such discussion is written in connection with the promotion or marketing by the Lehman Proponents of the transactions or matters addressed herein; and (c) holders of Claims should seek advice based on their particular circumstances from an independent tax advisor.*

## **21.1 Consequences to Holders of Lehman Secured Claims and Danske Bank Secured Claims**

Pursuant to the Lehman Plan, the Holders of Lehman Secured Claims and Danske Bank Secured Claims will either receive Cash or property (including Remaining Real Estate Projects conveyed to the Holders of such Claims or one or more Lehman Nominees in consideration of a successful credit bid) in satisfaction of their Claims.

1 In general, each Holder of such a Claim should recognize gain or loss in an amount  
2 equal to the difference between (x) the amount of cash and the fair market value of other property  
3 received by the Holder in satisfaction of its Claim (other than any Claim for accrued but unpaid  
4 interest and other than any amount treated as imputed interest as further discussed below) and (y) the  
5 holder's adjusted tax basis in its Claim (other than any basis attributable to accrued but unpaid  
6 interest but including any basis such holder has as a result of a transfer by a Lehman Related Party of  
7 new Cash to fund a Lehman Post-Confirmation Loan).

8 Distributions to such holders may be made subsequent to the Effective Date. Under  
9 the Tax Code, a portion of each distribution to such Holders may be treated as imputed interest. In  
10 addition, it is possible that any loss and a portion of any gain realized by such holder may be  
11 deferred until such time as such Holder has received its final distribution. All Holders of such  
12 Claims should consult their tax advisors as to tax consequences of distributions subsequent to the  
13 Effective Date.

14 A Holder's initial tax basis in any Remaining Real Estate Projects conveyed should  
15 equal the fair market value thereof. Gain or loss recognized by a holder on the sale, exchange or  
16 other disposition of the Remaining Real Estate Projects will equal the difference, if any, between the  
17 amount realized by the holder and the holder's adjusted tax basis in the Remaining Real Estate  
18 Projects immediately before the sale, exchange or other disposition. Any such gain or loss will be  
19 long-term if the holder's holding period for the Remaining Real Estate Project is more than one year  
20 at that time. A holder's holding period for any conveyed Remaining Real Estate Projects generally  
21 should begin the day following the day that it is conveyed to the holder. Depending upon the facts at  
22 the time, such gain or loss may be capital or may be "Section 1231 Gain" or "Section 1231 Loss."  
23 The discussion in this paragraph is premised upon the holder being considered the owner of a  
24 Remaining Real Estate Project for federal income tax purposes. There is some uncertainty to this  
25 position to the extent the Remaining Real Estate Projects are subject to the PRA Recovery Deeds of  
26 Trust. Holders of Remaining Real Estate Projects should consult their own tax advisors as to the tax  
27 consequences of the receipt, holding and disposition of Remaining Real Estate Projects.  
28

1 In addition, as described in Section VII of the Plan, an amount of Cash, up to the  
2 Maximum PRA Recovery Amount, will be deposited from time to time into the Plan Reserve.  
3 Although there may be alternative characterizations of such funds for federal income tax purposes,  
4 the applicable Holders of Lehman Secured Claims will treat all such amounts as having been  
5 received by them for all applicable federal income tax purposes. Thus, the applicable Holders of  
6 Lehman Secured Claims should include all such amounts as having been received by them in their  
7 calculation of gain or loss described above. In addition, the applicable Holders of Lehman Secured  
8 Claims should include in their gross income all income earned by the Plan Reserve. Upon a  
9 distribution of any amounts from the Plan Reserve to the Holders of Allowed ES Claims, the  
10 applicable Holder of a Lehman Secured Claim should recognize a loss equal to the amount so  
11 distributed. The Holder of a Lehman Secured Claim should consult its own tax advisor regarding  
12 the character of such loss.

13 **21.2 Consequences to Holders of General Unsecured Claims.**

14 Pursuant to the Lehman Plan, as soon as reasonably practicable, the Liquidating  
15 Trustee will distribute Residual Cash, if any, Pro Rata to the Holders of Allowed General Unsecured  
16 Claims and Allowed ES Claims in satisfaction and discharge of their Claims. In addition, each  
17 Holder of an Allowed ES Claim shall receive (a) if the Holder votes to accept, the ES Settlement  
18 Offer (or if there is Estate Acceptance of the ES Settlement for the Estate against which the Allowed  
19 ES Claim is asserted and the Holder returns with its Ballot or to the Lehman Lenders a duly executed  
20 ES Claimant Release and Assignment, an ES Pro Rata Settlement Payment to be paid as soon as  
21 reasonably practicable after the later of (i) the Effective Date and (ii) final allowance of such Claim  
22 and (b) if the Holder does not vote to accept the ES Settlement Offer (and there is not Estate  
23 Acceptance of the ES Settlement for the Estate against which the Allowed ES Claim is asserted), the  
24 benefits, if any, of the Equitable Subordination Claims as determined by the Bankruptcy Court in  
25 connection with an ES Action, as and when available.

26 In general, each Holder of such a Claim should recognize gain or loss in an amount  
27 equal to the difference between (x) the amount of Cash received by the holder in satisfaction of its  
28 Claim (other than any Claim for accrued but unpaid interest and other than any amount treated as

1 imputed interest as further discussed below) whether received pursuant to the Lehman Plan, and (y)  
2 the Holder's adjusted tax basis in its Claim (other than any basis attributable to accrued but unpaid  
3 interest).

4 Distributions to such Holders will be made subsequent to the Effective Date. Under  
5 the Tax Code, a portion of each distribution to such Holders may be treated as imputed interest. In  
6 addition, it is possible that any loss and a portion of any gain realized by such Holder may be  
7 deferred until such time as such Holder has received its final distribution whether received by the  
8 Holder pursuant to the Lehman Plan. All Holders of such Claims should consult their tax advisors as  
9 to tax consequences of distributions subsequent to the Effective Date.

### 10 **21.3 Distributions in Discharge of Accrued but Unpaid Interest.**

11 Pursuant to the Lehman Plan, distributions to any holder of Allowed Claims will be  
12 allocated first to the principal amount of such Claims, as determined for federal income tax  
13 purposes, and thereafter, to the portion of such Claim, if any, representing accrued but unpaid  
14 interest or original issue discount ("OID"). However, there is no assurance that the IRS would  
15 respect such allocation for federal income tax purposes.

16 In general, to the extent that any consideration received pursuant to the Lehman Plan  
17 by a Holder of an Allowed Claim is received in satisfaction of accrued interest or OID during its  
18 holding period, such amount will be taxable to the holder as interest income (if not previously  
19 included in the holder's gross income). Conversely, a holder generally recognizes a deductible loss  
20 to the extent any accrued interest claimed or amortized OID was previously included in its gross  
21 income and is not paid in full. However, the IRS has privately ruled that a holder of a security of a  
22 corporate issuer, in an otherwise tax-free exchange, could not claim a current deduction with respect  
23 to any unpaid OID. Accordingly it is also unclear whether, by analogy, a holder of a Claim of a non-  
24 corporate issuer would be required to recognize a capital loss, rather than an ordinary loss, with  
25 respect to previously included OID that is not paid in full.

26 Each holder of a Claim is urged to consult its tax advisor regarding the allocation of  
27 consideration and the deductibility of accrued but unpaid interest for federal income tax purposes.  
28

1                   **21.4    Character of Gain or Loss**

2                   Where gain or loss is recognized by a Holder of such a Claim, the character of such  
3 gain or loss as long-term or short-term capital gain or loss or as ordinary income or loss will be  
4 determined by a number of factors, including, among others, the tax status of the holder (including  
5 method of accounting), whether the Claim constitutes a capital asset in the hands of the holder,  
6 whether the Claim arose in connection with the provision of services by the holder and how long it  
7 has been held, whether the Claim was acquired at a market discount, and whether and to what extent  
8 the holder previously had claimed a bad debt deduction.

9                   **21.5    Information Reporting and Withholding**

10                  All distributions to holders of Allowed Claims under the Lehman Plan are subject to  
11 any applicable tax withholding. Under United States federal income tax law, interest, dividends, and  
12 other reportable payments may, under certain circumstances, be subject to “backup withholding” at  
13 the then applicable withholding rate (currently 28%). Backup withholding generally applies if the  
14 holder (a) fails to furnish its social security number or other taxpayer identification number (“TIN”),  
15 (b) furnishes an incorrect TIN, (c) fails properly to report interest or dividends, or (d) under certain  
16 circumstances, fails to provide a certified statement, signed under penalty of perjury, that the TIN  
17 provided is its correct number and that it is a United States person that is not subject to backup  
18 withholding. Backup withholding is not an additional tax but merely an advance payment, which  
19 may be refunded by the IRS to the extent it results in an overpayment of tax and the appropriate  
20 information is timely supplied to the IRS. Certain persons are exempt from backup withholding,  
21 including, in certain circumstances, corporations and financial institutions.

22                  In addition, from an information reporting perspective, Treasury Regulations  
23 generally require disclosure by a taxpayer on its United States federal income tax return of certain  
24 types of transactions in which the taxpayer participated, including, among other types of  
25 transactions, certain transactions that result in the taxpayer’s claiming a loss in excess of specified  
26 thresholds. Holders are urged to consult their tax advisors regarding these regulations and whether  
27 the transactions contemplated by the Plan would be subject to these regulations and require  
28 disclosure on the holders’ tax returns.



*The foregoing summary has been provided for informational purposes only. All holders of Claims receiving a distribution under the Plan are urged to consult their tax advisors concerning the United States federal, state and local and foreign tax consequences applicable under the Plan.*

## **XXII.**

### **CONCLUSION**

For all of the reasons stated in Article V of this Lehman Disclosure Statement, the Elieff Plan is unlikely to be confirmed and is dependent for its success and feasibility on the successful prosecution of the ES Action, which (as more fully set forth in Section 4.5 of this Lehman Disclosure Statement) the Lehman Lenders believe is wholly without merit. Indeed, as the Elieff Plan Proponents concede in the Elieff Disclosure Statement (at page 132): “The feasibility of a distribution to creditors other than each Debtor’s senior creditors is dependent on the Debtors’ ability to prevail in the [ES Action].”

The Lehman Plan, on the other hand, provides for: an orderly disposition of the Remaining Real Estate Assets; a settlement proposal to the Holders of Allowed ES Claims that is likely to result in a distribution of at least 6.6% on account of such Allowed ES Claims; adequate funding for the Lehman Plan to become effective and to be implemented; and a litigation fund and recovery mechanism for the continued prosecution of the Equitable Subordination Claims in the ES Action after the Effective Date on behalf of ES Claimants who have either not accepted, nor are deemed to have accepted, the ES Settlement Offer. Further, the Lehman Proponents believe that the risk that the Lehman Plan will not be confirmed is substantially less than the confirmation risk associated with the Elieff Plan.

The Lehman Proponents contend that the Lehman Plan provides a faster and higher recovery to Creditors (especially the holders of Allowed ES Claims) than the alternatives offered either by the Elieff Plan or a Chapter 7 liquidation of the Debtors’ Estates. Accordingly, the Lehman Proponents urge Creditors entitled to vote with respect to the Lehman Plan to vote for its acceptance

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///

1 and, further, urge the holders of ES Claims to accept ES Settlement Offer when returning their  
2 Ballots on the Lehman Plan.

3 Dated: September 9, 2009

PACHULSKI STANG ZIEHL & JONES LLP

4  
5 By /s/Robert B. Orgel  
6 Richard M. Pachulski (CA Bar No. 84529)  
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10 Lehman Commercial Paper, Inc.  
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APPENDIX "A"

**DEFINITIONS AND RULES OF INTERPRETATION**

**1. Definitions.**

The following defined terms are used in the Lehman Plan. Any capitalized term that is not defined herein, but is defined in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules. Other capitalized terms not defined in this Appendix "A" are defined in the body of the Lehman Disclosure Statement.

**10000 Santa Monica Project.** The Project owned by SunCal Century City, located in Century City, California.

**Acquisitions.** SCC Acquisitions, Inc., a California corporation, and the Debtors' indirect parent, but not a Debtor in any of the Cases.

**Acton Estates.** Acton Estates, LLC, a Delaware limited liability, a Voluntary Debtor herein, and the owner of the Acton Project.

**Acton Project.** The Project owned by Acton Estates, located in Los Angeles County, California, as more particularly described herein.

**Administrative Claim(s).** Any Claim against a Plan Debtor incurred after the applicable Petition Date for such Plan Debtor but before the Confirmation Date for any cost or expense of administration of the Cases of the Plan Debtors entitled to priority under Section 507(a)(2) or (3) of the Bankruptcy Code, including, without limitation, any fees or charges assessed against the Estates of the Plan Debtors under Section 1930 of Title 28 of the United States Code.

**Administrative Claim Bar Date.** The General Administrative Claim Bar Date and the Administrative Tax Claim Bar Date.

**Administrative Tax Claim(s).** A request for payment of an Administrative Claim by a governmental unit for Taxes (or for interest or penalties related to such Taxes) for any tax year or period, all or any portion of which occurs or falls within the period from and including the applicable Petition Date through and including the Effective Date.

**Administrative Tax Claim Bar Date.** The earlier of (a) any bar date otherwise established by the Bankruptcy Court or (b) on or before the later of (i) sixty (60) days following the

1 Effective Date; and (ii) 180 days following the filing of the tax return for such taxes for such tax  
2 year or period with the applicable governmental unit.

3 **Affiliate.** As to any Person, any other Person that directly or indirectly owns or  
4 controls, is owned or controlled by, or is under common ownership or control with, such Person. The  
5 term "control" (including, with correlative meanings, the terms "controlled by" and "under common  
6 control with"), as applied to any Person, means the possession, direct or indirect, of the power to  
7 direct or cause the direction of the management and policies of such Person, whether through the  
8 ownership of voting securities or other equity ownership interest, by contract or otherwise; provided  
9 that as to any Lehman Related Party, the term "Affiliate" does not include any Debtor.

10 **Allowed.** This term is used both separately and in conjunction with other defined  
11 terms herein (*e.g.*, Allowed Tax Claims) and means:

12 (i) with respect to any Administrative Claim (a) if the Claim is based  
13 upon a Fee Application, an unsecured Claim in the amount of such Fee Application that has been  
14 approved by a Final Order of the Bankruptcy Court; (b) if the Claim is based upon any indebtedness  
15 or obligation incurred in the ordinary course of business of the Plan Debtors and is not otherwise  
16 subject to an Administrative Claim Bar Date, in the amount of such Claim and with a status as  
17 secured or unsecured as each are asserted by such creditor and not disputed by the Liquidating  
18 Trustee or the Lehman Lenders, failing which, the amount and secured or unsecured status thereof as  
19 fixed by a Final Order of the Bankruptcy Court; or (c) if the Holder of such Claim was required to  
20 File and has Filed proof thereof with the Bankruptcy Court prior to an Administrative Claim Bar  
21 Date, (1) in the amount and with the status as secured or unsecured and in the statutory priority as  
22 stated in such proof of Administrative Claim if no objection to such proof of Administrative Claim is  
23 interposed within the applicable period of time, if any, fixed by the Bankruptcy Code, the  
24 Bankruptcy Rules, the Bankruptcy Court or the Lehman Plan, or (2) in the amount and with the  
25 status as secured or unsecured and in the statutory priority as fixed by Final Order of the Bankruptcy  
26 Court if an objection to such proof was interposed within any applicable period of time so fixed; and

27 (ii) with respect to any Claim which is not an Administrative Claim, (a) if  
28 no objection to such Claim was interposed by the Claims Objection Deadline, (1) if the Holder of

1 such other Claim did not File proof thereof with the Bankruptcy Court on or before the Claims Bar  
2 Date, in the amount of such Claim and with the status as secured or unsecured and with the statutory  
3 priority as listed in the Plan Debtors' Schedules if listed as neither disputed, contingent or  
4 unliquidated and (2) if the Holder of such Claim has Filed a Proof of Claim therefor with the  
5 Bankruptcy Court on or before the Claims Bar Date, in the amount and with the status as secured or  
6 unsecured and in the statutory priority as stated in such Proofs of Claim, or (b) if an objection to  
7 such Claim was interposed by the Claims Objection Deadline, in the amount and with the status as  
8 secured or unsecured and in the statutory priority thereof as fixed by Final Order of the Bankruptcy  
9 Court;

10 (iii) with respect to a Claim's status as an ES Claim, (a) with ES Claim  
11 status if ES Claim status is alleged on the Holder's Ballot in the manner provided therefor and if no  
12 objection thereto is interposed by the Claims Objection Deadline, (b) with ES Claim status if alleged  
13 by the Liquidating Trustee and either (1) the Lehman Creditors and any surviving Committee  
14 consent or (2) no objection thereto is Filed by the later of the Claims Objection Deadline or seventy-  
15 five (75) days after notice thereof to any surviving Committees and the Lehman Creditors or (c) as  
16 fixed by Final Order of the Bankruptcy Court; and

17 (iv) with respect to any Interest, (a) if no objection to such Interest was  
18 interposed within the applicable period of time fixed by the Bankruptcy Code, the Bankruptcy Rules,  
19 the Lehman Plan or the Bankruptcy Court, (1) if the Holder of such Interest did not File proof  
20 thereof with the Bankruptcy Court within the applicable period of time fixed by the Bankruptcy  
21 Code, the Bankruptcy Rules, the Lehman Plan or the Bankruptcy Court, in the number, amount or  
22 percentage of such Interest and with the nature thereof as listed in the Plan Debtors' Schedules if  
23 listed as neither disputed, contingent or unliquidated and (2) if the Holder of such Interest has Filed a  
24 Proof of Interest therefor with the Bankruptcy Court within the applicable period of time fixed by the  
25 Bankruptcy Code, the Bankruptcy Rules, the Lehman Plan or the Bankruptcy Court, in the number,  
26 amount or percentage of such Interest and with the nature thereof as stated in such Proof of Interest,  
27 or (b) if an objection to such proof was interposed within the applicable period of time fixed by the  
28 Bankruptcy Code, the Bankruptcy Rules, the Lehman Plan or the Bankruptcy Court, in the number,

1 amount or percentage of such Interest and nature thereof as fixed by Final Order of the Bankruptcy  
2 Court; but

3 (v) with respect to any Administrative Claim, Claim or Interest, the term  
4 “Allowed” does not signify whether or not such Administrative Claim, Claim or Interest has been  
5 subordinated to another Administrative Claim, Claim or Interest or is entitled to the benefits of such  
6 subordination.

7 **Allowed Amount.** The amount in which a Claim or Interest is Allowed.

8 **Arch.** Arch Insurance Company, a Bond Issuer.

9 **Assets.** All assets that are property of the Debtor(s) pursuant to Bankruptcy Code  
10 Section 541.

11 **Available Cash.** Cash held by each Plan Debtor as of the Effective Date other than  
12 Cash Collateral.

13 **Avoidance Actions.** All Claims and defenses to Claims accruing to the Plan Debtors  
14 and their Estates under Bankruptcy Code Sections 506(d), 510(c), 541, 544, 545, 547, 548, 549, 550,  
15 or 551.

16 **Ballot.** The ballot to vote to accept or reject the Lehman Plan and to vote for  
17 acceptance or rejection of the ES Settlement Offer.

18 **Bankruptcy Code.** The Bankruptcy Reform Act of 1978, as amended, as set forth in  
19 Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq., as applicable to the Cases.

20 **Bankruptcy Court.** The United States Bankruptcy Court for the Central District of  
21 California, having jurisdiction over the Cases and, to the extent of any withdrawal of the reference  
22 made pursuant to Section 157 of Title 28 of the United States Code, the United States District Court  
23 for the Central District of California; or, in the event such courts cease to exercise jurisdiction over  
24 the Cases, such court or unit thereof that exercises jurisdiction over the Cases in lieu thereof.

25 **Bankruptcy Rules.** Collectively, as now in effect or hereafter amended and as  
26 applicable to the Cases, (i) the Federal Rules of Bankruptcy Procedure, and (ii) the Local  
27 Bankruptcy Rules and General Orders applicable to cases pending before the Bankruptcy Court.  
28

1                   **Beaumont Heights Project.** The Project owned by SunCal Beaumont, located in the  
2 City of Beaumont, California, as more particularly described herein.

3                   **Bickford Ranch Project.** The Project owned by SunCal Bickford, located in the  
4 City of Penryn, California, as more particularly described herein.

5                   **Bickford Second Lien Loan Agreement.** That certain promissory note, dated as of  
6 May 25, 2005, in the maximum aggregate principal amount of approximately \$30,000,000, made by  
7 SunCal Bickford, as borrower, and payable to the order of Lehman ALI, as lender. The loan made  
8 pursuant to and/or evidenced by the Bickford Second Lien Loan Agreement is secured by a second  
9 priority deed of trust on the Bickford Ranch Project. The outstanding balance of the loan under the  
10 Bickford Second Loan Agreement was not less than \$54,494,059.38 as of the applicable Petition  
11 Date.

12                   **Bond Claim(s).** Any Claim against the Debtor(s) and a Bond Issuer under various  
13 payment or performance bonds issued by a Bond Issuer.

14                   **Bond Claimant.** Holder(s) of a Bond Claim.

15                   **Bond Issuer(s).** Bond Safeguard and Arch in their capacities as issuers and sureties  
16 for payment and performance bonds for the benefit of certain of the Debtors and with respect to and  
17 for the benefit of the Projects owned by such Debtors.

18                   **Bond Obligation(s).** The alleged obligation(s) of the Bond Obligor(s) to indemnify  
19 the Bond Issuers for any payments made by the Bond Issuers to Holders of Bond Claims.

20                   **Bond Obligor(s).** Obligor(s) who are liable to a Bond Issuer for any payments made  
21 by such Bond Issuer to a Bond Claimant or for performance obligations under any performance  
22 bonds issued by such Bond Issuer for the benefit of any of the Debtors or their respective Projects.  
23 Arch asserts that the Bond Obligor(s) under payment and performance bonds issued by Arch for the  
24 benefit of any Debtor or with respect to any Project are all of the Debtors, Acquisitions and Elieff.  
25 Bond Safeguard asserts that the Bond Obligor(s) under payment and performance bonds issued by  
26 Bond Safeguard for the benefit of any Debtor or with respect to any Project are the respective  
27 Debtors for whose benefit such bonds were issued, Acquisitions and Elieff.

28                   **Bond Safeguard.** Bond Safeguard Insurance Company, a Bond Issuer.

1                   **Business Day.** Any day, other than a Saturday, a Sunday or a "legal holiday," as  
2 defined in Bankruptcy Rule 9006(a); provided that with reference to the date on which something is  
3 to be Filed, it shall not include a day on which the applicable court is inaccessible for the purpose of  
4 Filing such paper.

5                   **Cases.** The chapter 11 cases of the Debtors pending before the Bankruptcy Court.

6                   **Cash.** Currency of the United States of America and cash equivalents, including, but  
7 not limited to, bank deposits, immediately available or cleared checks, drafts, wire transfers and  
8 other similar forms of payment.

9                   **Cash Collateral.** This term is used in reference to certain Assets of a Plan Debtor's  
10 Estate with the same meaning as set forth in Bankruptcy Code Section 363(a).

11                   **Claim.** A claim — as Bankruptcy Code section 101(5) defines the term "claim"—  
12 against any Plan Debtor or any Plan Debtor's property, including, without limitation (a) any right to  
13 payment from any of the Plan Debtors, whether or not such right is reduced to judgment, liquidated,  
14 unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured,  
15 or unsecured and (b) any right to an equitable remedy for breach of performance if such breach gives  
16 rise to a right of payment from any of the Plan Debtors, whether or not such right to an equitable  
17 remedy is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured,  
18 disputed, undisputed, legal, equitable, secured or unsecured.

19                   **Claims Bar Date.** For Claims, other than Administrative Claims, the last date for  
20 Filing proofs of Claim as was established by order or orders of the Bankruptcy Court entered prior to  
21 September 9, 2009, which date was March 31, 2009 for certain Claims.

22                   **Claims Objection Deadline.** For a Claim other than an Administrative Claim and  
23 except as otherwise set forth in the Lehman Plan, the first Business Day following the one hundred  
24 and twentieth (120th) day after the later of (a) the Effective Date or (b) the applicable bar date for  
25 the Claim; provided that: (a) for the ES Claims of Settling ES Claimants, instead, the first Business  
26 Day that is at least sixty (60) days after the Effective Date; (b) upon application to the Bankruptcy  
27 Court, the Liquidating Trustee or Lehman Lenders may obtain an extension of any such deadline for  
28 up to sixty (60) days for cause shown; and (c) any deadline may be extended by agreement of the



1 potential target of the objection and the Liquidating Trustee or a Lehman Lender.

2 **Class.** Each group of Claims or Interests classified in Article IV of the Lehman Plan  
3 pursuant to Sections 1122 and 1123 of the Bankruptcy Code.

4 **Committees.** Collectively, the Voluntary Debtors' Committee and the Trustee  
5 Debtors' Committee.

6 **Confirmation Date.** The date on which the Confirmation Order is entered in the  
7 Bankruptcy Court's docket.

8 **Confirmation Order.** The order entered by the Bankruptcy Court confirming the  
9 Lehman Plan in accordance with the provisions of chapter 11 of the Bankruptcy Code.

10 **Creditor.** Any Person who is the Holder of a Claim against any Debtor that arose or  
11 accrued or is deemed to have arisen or accrued or to have matured, or otherwise become due, owing,  
12 and payable on or before the applicable Debtor's Petition Date, including, without limitation, Claims  
13 of the kind specified in Sections 502(g), 502(h) or 502(i) of the Bankruptcy Code.

14 **Cross-Collateralization Action.** An Avoidance Action against a Lehman Related  
15 Party that relates to a Cross-Collateralization Claim that is timely Filed and Filed no later than sixty  
16 (60) days following the Effective Date.

17 **Cross-Collateralization Claim.** A Claim against any Lehman Creditor under state or  
18 federal fraudulent transfer laws, provided: (a) it is set forth in a complaint Filed no later than sixty  
19 (60) days following the Effective Date and (b) such Claim seeks to set aside a Lehman Secured  
20 Claim as against a particular Plan Debtor's Estate based on the principal amount of such Lehman  
21 Secured Claim against such Plan Debtor's Estate exceeding the funds alleged by the Debtors to have  
22 been advanced for the subject collateral or to have directly or indirectly benefitted the applicable  
23 Plan Debtor in connection with the applicable Lehman Loan.

24 **Cross-Collateralization Judgment.** Any judgment in favor of the Liquidating  
25 Trustee pursuant to or as a result of a Cross-Collateralization Action against a Lehman Related  
26 Party.

27 **Danske Bank.** Danske Bank A/S London Branch.  
28

1                   **Danske Secured Claim.** The Secured Claim of Danske Bank, a Lehman Successor,  
2 arising from the SunCal Century City Loan Agreement.

3                   **Debtor(s).** Individually or collectively, the Voluntary Debtors and the Trustee  
4 Debtors.

5                   **Debtor(s)-in-Possession.** The Voluntary Debtor(s) when acting in their capacity as  
6 representatives of their respective Estates in their respective Cases.

7                   **Debtors' Second Amended Disclosure Statement.** The Debtors' Second Amended  
8 Joint Disclosure Statement Describing Debtors' Second Amended Joint Chapter 11 Plan, dated June  
9 10, 2009.

10                   **Del Amo Project.** The Project owned by SunCal Torrance, located in the City of  
11 Torrance, California, as more particularly described herein.

12                   **Del Rio.** North Orange Del Rio Land, LLC, a Delaware limited liability company, a  
13 Voluntary Debtor herein, and the owner and holder of the Del Rio Rights and the Del Rio CFD Bond  
14 Proceeds.

15                   **Del Rio CFD Bond Proceeds.** All proceeds of those certain bonds to be designated  
16 as "City of Orange, Community Facilities District No. 06-01 (Del Rio Public Improvements) 2007  
17 Special Tax Bonds" or similarly designated bonds to be issued by the City of Orange, California in  
18 connection with that certain community facilities district established by the City and known as the  
19 City of Orange Community Facilities District No. 06-01 (Del Rio Public Improvements).

20                   **Del Rio Development Agreement.** Development Agreement, recorded on July 27,  
21 2004 in the Official Records of Orange County, California as Instrument No. 2004-000677141, as  
22 amended by (i) that certain First Operating Memorandum, dated August 17, 2006, (ii) that certain  
23 Second Operating Memorandum, dated December 5, 2006, (iii) that certain Operating Memorandum  
24 No. 3, dated May 22, 2007, and (iv) that certain Operating Memorandum No. 4, dated July 21, 2008.

25                   **Del Rio PSA.** That certain Purchase Agreement and Escrow Instruction (Del Rio)  
26 dated as of June 14, 2005 by and among Del Rio, as the seller, and Lennar Homes of California and  
27 Centex Homes, as the buyers, as assigned by the buyers to Lennar Centex Del Rio Partners, LLC per  
28 that certain Assignment of Purchase Agreement and Escrow Instructions dated as of November 14,

2005, as amended by that certain First Amendment to Purchase Agreement and Escrow Instructions (Del Rio) and that certain Second Amendment to Purchase Agreement and Escrow Instructions (Del Rio) dated as of January 30, 2007.

**Del Rio Rights.** Collectively, (i) all right, title and interest of Del Rio, as developer or in any other capacity, in, to, under or pursuant to the Del Rio Development Agreement including, without limitation, all any and all Del Rio CFD Bond Proceeds, and (ii) all right, title and interest of Del Rio, as seller, under the Del Rio PSA including, without limitation, all profit participation, proceeds, revenues and income to which Del Rio is or may be entitled thereunder.

**Del Rio / SJD Partners Release.** A release, in a form reasonably acceptable to the Lehman Lenders, to be executed within forty-five (45) days following the Effective Date by the Liquidating Trustee for the Estate of Del Rio or the Estate of SJD Partners to obtain certain benefits described in Section 9.8.3(b)(2) of the Lehman Plan that is in a form or substantially the form of the Plan Release set forth in Section 9.10 of the Lehman Plan, but (a) without any exception, as matters not to be released, for Cross-Collateralization Claims or Avoidance Actions and (b) with additional releasees consisting of all and any owners of the applicable Project(s) or other Assets that were at any time owned by Del Rio or SJD Partners, as applicable.

**Delta Coves.** Delta Coves Venture, LLC, a Delaware limited liability company, a Trustee Debtor herein, and the owner of the Delta Coves Project.

**Delta Coves Loan Agreement.** That certain Amended and Restated Loan Agreement, dated as of April 20, 2007, by and between Delta Coves, as borrower, and Lehman ALI, as agent and lender, pursuant to which the lenders thereunder made a loan to the borrower in the maximum aggregate principal amount of approximately \$236,000,000. The loan made pursuant to and/or evidenced by the Delta Coves Loan Agreement is secured by a first priority deed of trust on the Delta Coves Project. The outstanding balance of the loan under the Delta Coves Loan Agreement was not less than \$206,023,142.48 as of the applicable Petition Date.

**Delta Coves Project.** The Project owned by Delta Coves, located in Bethel Island in Contra Costa County, California, as more particularly described herein.

**Detailed Sale / Foreclosure Procedures.** The detailed procedures with respect to

1 which the Liquidating Trustee shall sell or convey each of the Remaining Real Estate Projects for  
2 which there is a Successful Bidder, either to a third party purchaser, a Lehman Nominee or another  
3 Holder of an Allowed Secured Claim, pursuant to and consistent with the Lehman Plan Sale or  
4 Foreclosure Procedures, in a form acceptable to the Lehman Creditors and Liquidating Trustee or as  
5 reasonably proposed by the Lehman Lenders and approved by the Bankruptcy Court at, or after the  
6 hearing on, confirmation of the Lehman Plan, as may be modified after the Confirmation Date by  
7 agreement of the applicable Lehman Nominee or other owner and Liquidating Trustee or approval of  
8 the Bankruptcy Court.

9 **Disputed Claim(s).** All or any part of a Claim that is not Allowed, including, without  
10 limitation, all or part of a Claim as to which any one of the following applies: (i) no Proofs of Claim  
11 has been Filed with respect to such Claim and it is not deemed Allowed under the Lehman Plan, and  
12 either (a) the Claim is not listed in the Schedules or (b) the Claim is listed in the Schedules as  
13 unliquidated, disputed, contingent, unknown or in a zero amount, (ii) the liability for, amount,  
14 priority or status of the Claim as secured, status as unsecured or status as an ES Claim (a) is the  
15 subject of a pending proceeding, whether arbitration, mediation, litigation, adversary proceeding or  
16 otherwise; (b) is subject to offset based upon a Filed judgment, Filed order, Filed stipulation or  
17 express provision in an executed agreement that was Filed or executed, as appropriate, after the  
18 alleged right to offset arose; (c) is the subject of a timely objection; or (d) is the subject of a request  
19 for estimation made in accordance with the Bankruptcy Code, the Bankruptcy Rules, any applicable  
20 order of the Bankruptcy Court or the Lehman Plan, in each case that is Filed on or before the Claims  
21 Objection Deadline, provided that any such proceeding, objection, or request for estimation has not  
22 been dismissed, withdrawn or determined by a Final Order; or (iii) the Claim is otherwise treated as  
23 a "Disputed Claim" pursuant to the Lehman Plan.

24 **Distribution(s).** Payment(s) to Holder(s) of an Allowed Claim(s) or Allowed  
25 Interest(s) that are provided for under the Lehman Plan.

26 **Distribution Agent.** The Liquidating Trustee.

27 **Distribution Date.** With respect to any Allowed Claim or Allowed Interest, the date  
28 on which a Distribution is required to be made under the Lehman Plan.

1                   **Effective Date.** A date selected by the Lehman Lenders, but in no event later than the  
2 sixtieth (60th) day after the Confirmation Date.

3                   **Elieff.** Bruce Elieff, the manager of Acquisitions, the indirect parent of all of the  
4 Debtors.

5                   **Emerald Meadows Project.** The Project owned by SunCal Emerald, located in the  
6 City of Rubidoux, California, as more particularly described herein.

7                   **Encumbrance.** Any Lien (statutory or otherwise), hypothecation, encumbrance,  
8 security interest, mortgage, pledge, restriction, charge, instrument, unassumed affirmative  
9 obligations under development agreements or subdivision improvement agreements, license,  
10 preference, priority, security agreement, easement, covenant, encroachment, option or other interest  
11 in the subject Project, including any right of recovery, tax (including foreign, federal, state and local  
12 tax), Order of any governmental authority or other claim there against or therein, of any kind or  
13 nature (including (i) any conditional sale or other title retention agreement and any lease having  
14 substantially the same effect as any of the foregoing, (ii) any assignment or deposit arrangement in  
15 the nature of a security device, (iii) any claims based on any theory that the acquiror is a successor,  
16 transferee or continuation of the sellers or their business, and (iv) any leasehold interest, license or  
17 other right, in favor of a person other than the transferor in connection with a sale or conveyance, to  
18 use any portion of the subject Project), whether secured or unsecured, choate or inchoate, filed or  
19 unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, contingent or non-  
20 contingent, material or non-material, known or unknown.

21                   **Equitable Subordination Claims.** Claims for equitable subordination pursuant to  
22 Bankruptcy Code § 510(c) held by an Estate for an ES Claimant against a Lehman Creditor.

23                   **ES Action.** (a) That certain adversary proceeding Filed in the Cases and pending  
24 before the Bankruptcy Court as Adversary Case No. 8:09-ap-01005 or (b) such other adversary  
25 proceeding in which Equitable Subordination Claims are asserted that is timely Filed and Filed no  
26 later than sixty (60) days following the Effective Date.

27                   **ES Claim.** A Claim against an ES Plan Debtor for “new value” (as defined in 11  
28 U.S.C. section 547(a)(2)) voluntarily provided or voluntarily extended to one or more of the ES Plan

Debtors after the ES Date and prior to the applicable Petition Date(s); provided that such Claim is not a (i) Secured Claim, (ii) Administrative Claim, (iii) Priority Tax Claim, (iv) Priority Claim, (v) Claim of an Insider or (vi) Claim of either a Lehman Lender or Lehman Successor in such capacity. *E.g.*, ES Claims do not include Claims provided or extended pursuant to a legal or contractual commitment or obligation existing prior to the ES Date. ES Claims are entitled to vote on the ES Settlement as set forth in the Lehman Plan.

**ES Claimant.** The Holder of an Allowed ES Claim.

**ES Claimant Release and Assignment.** In exchange for the commitment of the Lehman Lenders under the Lehman Plan to make available funding for the ES Pro Rata Settlement Payments from, among other sources, Cash Collateral of the Lehman Creditors as of the Effective Date, in returning its Ballot accepting the ES Settlement Offer, each Settling ES Claimant by Vote shall be deemed to release the ES Claimant Released Claims, from and against all Lehman Releasees and all and any owners of the applicable Project(s) (that were at any time owned by the Plan Debtor against which the applicable Allowed ES Claim is asserted), including the Lehman Nominees, which owners are or were successors or assigns of the applicable Debtor, and, to the extent such ES Claimant Released Claims cannot be released by the ES Claimant, assigns to the applicable Lehman Lender (or if multiple applicable Lehman Lenders, the Lehman Lender holding the most senior Lien against the applicable Estate's Project), all rights, benefits and interests of the Settling ES Claimant with respect to such ES Claimant Released Claims, all as more fully set forth in Section 9.8.2(d) of the Lehman Plan.

**ES Claimant Released Claims.** Any and all of an ES Settling Claimant's causes of action, actions, rights of action, suits, judgments, liens, indebtedness, damages, losses, claims, liabilities, obligations, attorneys' fees, costs, expenses and demands of every kind and character, whether known or unknown, suspected or unsuspected, disclosed or undisclosed, including without limitation any Litigation Claims, whether for damages, subordination or other remedies, and including any and any objections or defenses to Lehman Related Party's Claims, Liens, rights, or causes of action, to the extent attributable to the ES Claims of such Settling ES Claimant or to the extent that the Net Cash Litigation Recoveries therefrom would be payable in respect of the ES

1 Claims of such Settling ES Claimant.

2 **ES Date.** August 1, 2007, the earliest date on which the Lehman Lenders are alleged  
3 to have engaged in inequitable conduct as described in that certain adversary proceeding Filed in the  
4 Cases and pending before the Bankruptcy Court as Adversary Case No. 8:09-ap-01005.

5 **ES Judgment.** A judgment in favor of the Liquidating Trustee on behalf of and for  
6 the benefit of any particular group of ES Claimants in connection with any of the Equitable  
7 Subordination Claims against a Lehman Related Party.

8 **ES Litigation Expenses.** The reasonable and direct out-of-pocket expenses (but not  
9 any legal fees): (a) of and incurred by any replacement legal counsel to Miller Barondess, LLP, that  
10 is retained by the Liquidating Trustee on a contingency fee basis to prosecute the Equitable  
11 Subordination Claims of any ES Plan Debtor's Estate in an ES Action; (b) which are in excess of  
12 any Available Cash in the Post-Confirmation Accounts; and (c) which were incurred in connection  
13 with prosecuting the Equitable Subordination Claims in an ES Action; provided that (i) such  
14 expenses shall, under no circumstances, include any legal fees (including paralegal fees) or other  
15 fees of professionals employed by, or of, the replacement legal counsel or any other law firm (other  
16 than the reasonable fees and costs of any retained attorney expert witness) nor (ii) shall such  
17 expenses include any fees or expenses incurred or otherwise payable to Miller Barondess, LLP.

18 **ES Litigation Loan.** A loan to be made available by a Lehman Lender pursuant to  
19 the terms and conditions of and as further described in Section 9.8 of the Lehman Plan.

20 **ES Litigation Proceeds.** The proceeds of any ES Judgment or settlement (other than  
21 the ES Settlement) with respect to Non-Settled ES Claims.

22 **ES Plan Debtors.** All of the Plan Debtors other than: Kirby Estates; Seven Brothers;  
23 SunCal Beaumont; SunCal Century City; and SunCal Johannson.

24 **ES Pro Rata Settlement Payment.** A payment to any particular Holder of an  
25 Allowed ES Claim equal to the ES Settlement Amount multiplied by a fraction, the numerator of  
26 which shall be the amount of such Holders' Allowed ES Claim and the denominator of which shall  
27 be the amount of all Allowed ES Claims and all Allowed Mechanic's Lien Claims.

28 **ES Settlement.** The settlement or settlements of Equitable Subordination Claims

1 relating to any particular Estate of a Plan Debtor upon acceptance of an ES Settlement Offer.

2 **ES Settlement Amount.** The maximum aggregate amount of \$15,000,000 to be  
3 made available to the Liquidating Trustee collectively by the Lehman Lenders as provided in Section  
4 9.5 of the Lehman Plan to fund any ES Pro Rata Settlement Payments to be made to the ES  
5 Claimants who vote for acceptance of the ES Settlement Offer on their Ballots and return with the  
6 Ballots ES Claimant Release and Assignments (included with the Ballots) duly executed by such ES  
7 Claimants or who are deemed to have accepted or who are otherwise bound by, the ES Settlement  
8 pursuant to the terms of the Lehman Plan.

9 **ES Settlement Offer.** The offer of the applicable Lehman Lender to settle the  
10 Equitable Subordination Claims relating to any particular Estate of an ES Plan Debtor by payment of  
11 the ES Pro Rata Settlement Payments either (a) to all Holders of Allowed ES Claims against such  
12 Estate who return a duly executed ES Claimant Release and Assignment, if there is Estate  
13 Acceptance of the ES Settlement by such Estate, or (b) only to the Holders of Allowed ES Claims  
14 against such Estate who vote for acceptance of the ES Settlement Offer on their Ballots and return  
15 with their Ballots duly executed ES Claimant Release and Assignments, if there is not Estate  
16 Acceptance of the ES Settlement by such Estate.

17 **Estate or Estates.** The bankruptcy estates of the Debtors created pursuant to Section  
18 541 of the Bankruptcy Code.

19 **Estate Acceptance of the ES Settlement.** The circumstance by which the Estate of a  
20 Plan Debtor accepts the ES Settlement Offer, which occurs if at least one-half in number and two-  
21 thirds in amount of the voting ES Claimants in such Estate vote for acceptance of the ES Settlement  
22 Offer on their Ballots and (unless waived by the Lehman Lenders as to one or more Ballots) return  
23 with their Ballots a duly executed ES Claimant Release and Assignment.

24 **Estate ES Settlement Release.** In exchange for the commitment of the Lehman  
25 Lenders under the Lehman Plan to make available funding for the ES Pro Rata Settlement Payments  
26 from, among other sources, Cash Collateral of the Lehman Creditors, as of the Effective Date, the  
27 Estate of each Plan Debtor as to which there is a Settling ES Claimant, on behalf of itself and its  
28 Affiliates exclusive of other Debtors herein, shall be deemed to release all claims, including without



1 limitation any Litigation Claims to the extent attributable to the ES Claims of the Settling ES  
2 Claimants or to the extent that the Net Cash Litigation Recoveries therefrom would be payable in  
3 respect of the ES Claims of the Settling ES Claimants, from and against all Lehman Releasees and  
4 all and any owners of the applicable Project(s) (that were at any time owned by the Plan Debtor of  
5 the releasing Estate), including the Lehman Nominees, which owners are or were successors or  
6 assigns of the applicable Debtor, all as more fully set forth in Section 9.8.2(c) of the Lehman Plan.

7 **Fee Applications.** Applications of Professionals under Sections 330, 331 or 503 of  
8 the Bankruptcy Code for allowance of compensation and reimbursement of expenses in the Cases.

9 **Fenway Capital.** Fenway Capital Funding LLC, which owns or holds a legal or  
10 equitable interest in all or a portion of the Lehman Loans made pursuant to and/or evidenced by the  
11 following loan agreements, but for which a Lehman Lender nonetheless continues as agent: (a)  
12 SunCal Communities I Loan Agreement; (b) Ritter Ranch Loan Agreement; (c) SunCal PSV Loan  
13 Agreement; (d) Delta Coves Loan Agreement; (e) SunCal Marblehead / SunCal Heartland Loan  
14 Agreement; (f) SunCal Oak Valley Loan Agreement; and (g) SunCal Northlake Loan Agreement.

15 **Filed.** Delivered to, received by and entered upon the legal docket by the Clerk of the  
16 Bankruptcy Court. "File" and "Filing" shall have correlative meanings.

17 **Final Order.** A final and non-appealable judgment, order, ruling or other decree  
18 issued and entered by a court of competent jurisdiction.

19 **General Administrative Claim Bar Date.** The last date fixed by the Lehman Plan  
20 for the filing of Proofs of Claim or requests for payment of Administrative Claims other than for  
21 Taxes. Under the Lehman Plan, the General Administrative Claim Bar Date shall be the first  
22 Business Day after the sixtieth (60th) day after the Confirmation Date.

23 **General Unsecured Claim.** A Claim against a Plan Debtor that is not (a) a Secured  
24 Claim, (b) an Administrative Claim, (c) a Priority Tax Claim, (d) a Priority Claim or (e) an  
25 ES Claim.

26 **Heartland Project.** The Project owned by SunCal Heartland, located in Riverside  
27 County, California, as more particularly described herein.

28 **Holder.** The beneficial owner of any Claim or Interest.

1                   **Insider.** (1) A Person other than a Lehman Related Party that is an “insider” as  
2 defined in Bankruptcy Code Section 101, (2) an Affiliate of a Person or (3) without limiting the  
3 foregoing, as to all Debtors, *inter alia*, each other Debtor, SunCal Management, LLC, Acquisitions,  
4 Elieff, Voss, Cook & Thel LLP, Greenfield Communications, SunCal Master Venture Member, LLC  
5 and SunCal Del Rio, LLC.

6                   **Interest.** Any equity security or interest in any Plan Debtor within the meaning of  
7 Section 101(16) of the Bankruptcy Code, including, without limitation, any equity ownership  
8 interest in any of the Plan Debtors, whether in the form of common or preferred stock, stock options,  
9 warrants, partnership interests, membership interests, or any other equity security or interest.

10                   **Interim Loan Agreement.** That certain Loan Agreement, dated as of October  
11 31,2007, by and between SCC LLC, as borrower, and Lehman ALI, as agent and lender, pursuant to  
12 which the lender thereunder made a loan to the borrower in the maximum aggregate principal  
13 amount of approximately \$20,000,000. The outstanding balance of the loan under the Interim Loan  
14 Agreement was not less than \$23,795,012.59 as of the applicable Petition Date. The loan made  
15 pursuant to and/or evidenced by the Interim Loan Agreement is supported by a Subsidiary Guaranty  
16 made by SCC Communities, Tesoro and Del Rio and the obligations of the guarantors thereunder are  
17 secured by (a) a first priority deed of trust on the Joshua Ridge Project; (b) a first priority deed of  
18 trust on the Tesoro Project; and (c) an assignment of the Del Rio CFD Bond Proceeds.

19                   **Johannson Ranch Project.** The Project owned by SunCal Johannson, located in the  
20 City of Modesto, California, as more particularly described herein.

21                   **Joshua Ridge Project.** The Project owned by SCC Communities, located in the City  
22 of Victorville, California, as more particularly described herein.

23                   **Kirby Estates.** Kirby Estates, LLC, a Delaware limited liability company, a  
24 Voluntary Debtor herein, and the owner of that portion of the Summit Valley Project not owned by  
25 SunCal Summit Valley or Seven Brothers.

26                   **LCPI.** Lehman Commercial Paper Inc., a New York corporation.

27                   **Lehman Administrative Loans.** The post-petition financing provided by Lehman  
28 ALI to Palmdale Hills, SunCal Emerald, SunCal Bickford, Acton Estates, SunCal Oak Valley,

1 SunCal Heartland, SunCal Northlake, SunCal Marblehead, SunCal Century City, SunCal PSV, Delta  
2 Coves, and SunCal Oak Knoll, under which first priority priming Liens were granted to Lehman ALI  
3 on all borrower Debtors' assets (with the exception of SunCal Century City in which the Liens are  
4 junior priority), and as to which financing, super-priority administrative status was afforded and the  
5 automatic stay was modified to the extent necessary to implement the financing. The aggregate  
6 amount of the Lehman Administrative Loans to all of the borrower Debtors was not less than  
7 \$1,790,572, as of September 9, 2009.

8 **Lehman ALI.** Lehman ALI, Inc., a Delaware corporation

9 **Lehman Appeal.** Any appeal by a Lehman Related Party relating to the Equitable  
10 Subordination Claims in an ES Action or any Cross-Collateralization Claims in a Cross-  
11 Collateralization Action.

12 **Lehman Appeal Affected Debtor.** Any Estate of a Plan Debtor that cannot close  
13 due to a pending Lehman Appeal concerning such Estate's Assets or liabilities, including  
14 subordination of certain of its liabilities to other of its liabilities.

15 **Lehman Commercial.** Lehman Commercial Paper Inc., a New York corporation.

16 **Lehman Creditor.** Lehman Lender or Lehman Successor.

17 **Lehman Creditor Party.** Lehman Lender, Lehman Successor, the direct or indirect  
18 parent of either, or an Affiliate of either that is wholly owned by the Lehman Lender, Lehman  
19 Successor or by a direct or indirect parent of such Lehman Lender or Lehman Successor.

20 **Lehman Disclosure Statement.** The Disclosure Statement With Respect to Joint  
21 Chapter 11 Plan Proposed By Lehman Lenders.

22 **Lehman Lender.** Lehman ALI, Lehman Commercial, Northlake Holdings or OVC  
23 Holdings, including each in its capacity as agent, or agent and lender, with respect to the applicable  
24 Lehman Loans.

25 **Lehman Loan.** Each loan made pursuant to and/or evidenced by the following  
26 agreements: (a) SunCal Communities I Loan Agreement; (b) Bickford Second Lien Loan  
27 Agreement; (c) Ritter Ranch Loan Agreement; (d) SCC Palmdale Loan Agreement; (e) Interim Loan  
28 Agreement; (f) SunCal Oak Knoll/SunCal Torrance Loan Agreement; (g) SunCal PSV Loan

1 Agreement; (h) Delta Coves Loan Agreement; (i) SunCal Marblehead / SunCal Heartland Loan  
2 Agreement; (j) SunCal Oak Valley Loan Agreement; and (k) SunCal Northlake Loan Agreement.

3 **Lehman Nominee(s).** The entity or each entity designated by the Lehman Lenders,  
4 or any of them, to take title to a Remaining Real Estate Project as to which a Lehman Creditor is the  
5 Successful Bidder.

6 **Lehman Plan.** This *Joint Chapter 11 Plan Proposed By Lehman Lenders*, together  
7 with the Exhibits hereto, as the same may be amended, modified or restated from time to time.

8 **Lehman Plan Sale or Foreclosure Procedures.** The marketing, bidding and sale or  
9 transfer by foreclosure procedures for a sale or disposition of some or all of the Projects after  
10 confirmation of the Lehman Plan, all as more fully set forth in Section 9.7.2 of the Lehman Plan.

11 **Lehman Post-Confirmation Expenses.** Post-Confirmation Expenses incurred with  
12 respect to a Litigation Claim against a Lehman Related Party, other than ES Litigation Expenses to  
13 the extent susceptible of satisfaction from the proceeds of the ES Litigation Loan.

14 **Lehman Post-Confirmation Loan(s).** All funding made available to the Liquidating  
15 Trustee in connection with, or after, the Effective Date from either or both new Cash transfers from  
16 or on behalf of a Lehman Related Party or by a Lehman Lender permitting the use of Cash Collateral  
17 of a Lehman Creditor, in either case to be in the form of one or more loans, plus all costs, fees and  
18 expenses incurred in connection with making or collecting such loan(s), plus ten percent (10%)  
19 annual, compounded interest on the outstanding balance of such loan(s).

20 **Lehman Proponents.** The Lehman Lenders, in their capacity as proponents of the  
21 Lehman Plan.

22 **Lehman Related Party.** A Lehman Lender, Lehman Successor or Lehman  
23 Nominee, or an Affiliate of any of them.

24 **Lehman Releasees.** The Lehman Lenders, LV Pacific Point LLC, Lehman Re Ltd.,  
25 all other defendants in an ES Action, their respective Affiliates and each of their respective officers,  
26 directors, employees, agents, successors and assigns, including, without limitation, the Lehman  
27 Successors.

28 **Lehman Secured Claim.** A Secured Claim held by a Lehman Creditor.

1                   **Lehman Settlement Approval.** Entry of a judgment, order, ruling or other decree by  
2 the United States Bankruptcy Court for the Southern District of New York, which court has  
3 jurisdiction over the case of Lehman Commercial under the Bankruptcy Code (jointly administered  
4 under case no. 08-13555), approving the actions of Lehman Commercial in proposing, voting for,  
5 participating in and implementing the settlement(s) represented by the Lehman Plan.

6                   **Lehman Successor.** Any entity, other than a Lehman Lender, that either asserts to be  
7 or is determined by the Bankruptcy Court to be the owner of a Lehman Loan or any portion thereof,  
8 such as Fenway Capital.

9                   **Liquidating Trustee.** An individual nominated by a Committee(s), identified no  
10 later than ten (10) Business Days prior to the commencement of the hearing on confirmation of the  
11 Lehman Plan and approved by the Bankruptcy Court as qualified to serve in such capacity under the  
12 Lehman Plan; provided that if no other such person is so nominated, identified and approved, the  
13 Trustee shall serve as the Liquidating Trustee.

14                   **Litigation Claim(s).** Any and all interests of the Liquidating Trustee, Plan Debtors  
15 or their Estates in any and all claims, Liens, rights, causes of action, and objections or defenses to  
16 Claims, Liens, rights, or causes of action to the extent not waived, released or compromised under  
17 the Lehman Plan that have been or may be commenced by the Debtor(s), the Liquidating Trustee,  
18 the Trustee, or the Committee(s), as the case may be, including, but not limited to (i) Avoidance  
19 Actions, including any Cross-Collateralization Action or other Avoidance Action against a Lehman  
20 Related Party; (ii) Claims, rights or causes of action for turnover of property to the Plan Debtors'  
21 Estates and/or Liquidating Trustee; (iii) Claims, rights or causes of action for the recovery of  
22 property by, or payment of money to, the Plan Debtors' Estates or the Liquidating Trustee, including  
23 Equitable Subordination Claims in an ES Action and Cross-Collateralization Claims in a Cross-  
24 Collateralization Action; (iv) the right of the Liquidating Trustee to compensation in the form of  
25 damages, recoupment, or setoff; and (v) objections to Claims.

26                   **Litigation Recoveries.** Any Cash or other property received by the Trustee, the Plan  
27 Debtors, the Liquidating Trustee, or the Committees, as the case may be, from all or any portion of a  
28 Litigation Claim(s), including, but not limited to, awards of damages, attorneys' fees and expenses,

1 interest and punitive damages, whether recovered by way of settlement, execution on judgment or  
2 otherwise.

3 **Marblehead Project.** The Project owned by SunCal Marblehead, located in the City  
4 of San Clemente, California.

5 **Maximum DOT Security Amount.** The aggregate amount secured by the PRA  
6 Recovery Deeds of Trust at any time which shall be equal to the Maximum PRA Recovery Amount  
7 less the aggregate amount in the Plan Reserve (including any interest accrued on funds therein).

8 **Maximum PRA Recovery Amount.** An amount that serves as the maximum  
9 aggregate amount secured by the PRA Recovery Security Pool and equals specifically, the sum of  
10 the following: (a) \$1.74 million, if and only if there is a pending Reconveyance Agreement  
11 evidencing the obligation, upon entry of a Cross-Collateralization Judgment, to reconvey the Acton  
12 Project, Joshua Ridge Project or Tesoro Project to the applicable Plan Debtors; and (b) for an ES  
13 Judgment, (i) \$200 million less, if applicable, (ii) the amount determined as set forth in clause (a)  
14 hereof, if any, multiplied by (iii) the Non-Settling ES Claimant Percentage; provided that, on motion  
15 of a Lehman Related Party, the amounts set forth in clauses (a) or (b)(i) hereof may be reduced upon  
16 a Final Order of the Bankruptcy Court, as described in Section 9.7.2(c)(v) of the Lehman Plan.

17 **Mechanic's Lien Claim.** Mechanic's lien claims against a Plan Debtor's Project  
18 arising pursuant to California Civil Code §3110, et seq. that were either allegedly perfected  
19 prepetition or otherwise and allegedly satisfy the requirements of Bankruptcy Code Section 546(b).

20 **Negative Covenant.** The provision in each PRA Recovery Deed of Trust that the  
21 applicable Lehman Nominee will not cause, through an affirmative action on its part (as opposed to  
22 any inaction or failure to act), any hazardous substances to be deposited onto the applicable PRA  
23 Security Project encumbered by such PRA Recovery Deed of Trust at any time following the  
24 acquisition of title to such PRA Security Project by such Lehman Nominee and prior to the sale of  
25 such PRA Security Project; provided, however, that the Lehman Nominee shall have no obligation to  
26 (1) clean up, remove or remediate any existing hazardous substances (including, without limitation,  
27 any asbestos, mold or petroleum products) which may be present on or within such PRA Security  
28 Project or which may be emanating therefrom as of the date of the conveyance of such property to

1 such Lehman Nominee or (2) take any action or incur any expense to prevent hazardous substances  
2 from existing or being present on or within such PRA Security Project or from otherwise emanating  
3 therefrom except as specifically provided above.

4 **Net Cash Litigation Recoveries.** Any Litigation Recoveries consisting of Cash and  
5 any Cash proceeds of Litigation Recoveries less associated Post-Confirmation Expenses incurred in  
6 connection therewith.

7 **Net Cash Proceeds.** Net Proceeds consisting of Cash.

8 **Net Proceeds.** Gross proceeds of sale, liquidation or refinancing, less costs,  
9 expenses, fees, commissions, taxes (including federal, state and local income tax calculated at an  
10 assumed rate of forty-five percent (45%)) and other charges incurred directly in the sale, liquidation  
11 or refinancing of the underlying asset, including payment of senior Liens or encumbrances.

12 **Non-Settled ES Claims.** The ES Claims of Non-Settling ES Claimants.

13 **Non-Settling ES Claimant(s):** With respect to each Estate of an ES Plan Debtor, ES  
14 Claimants that do not vote to accept the ES Settlement Offer, unless there is Estate Acceptance of  
15 the ES Settlement for such Estate, in which case there shall be no Non-Settling ES Claimants of such  
16 Estate.

17 **Non-Settling ES Claimant Percentage.** The percentage of Allowed ES Claims that  
18 are held by Non-Settling ES Claimants.

19 **Northlake Holdings.** Northlake Holdings LLC, a Delaware limited liability  
20 company.

21 **Northlake Project.** The Project owned by SunCal Northlake, located in the City of  
22 Castaic California, as more particularly described herein.

23 **Oak Knoll Project.** The Project owned by SunCal Oak Knoll, located in the City of  
24 Oakland, California, as more particularly described herein.

25 **Oak Valley Project.** The Project owned by SunCal Oak Valley, located in Riverside  
26 County, California, as more particularly described herein.

27 **Other Secured Claim.** A Secured Claim that is not a Secured Real Property Tax  
28 Claim, Lehman Secured Claim or Danske Secured Claim.

1                   **OVC Holdings.** OVC Holdings LLC, a Delaware limited liability company.

2                   **Pacific Point Project.** The Project formerly owned by SJD Partners, which was non-  
3 judicially foreclosed upon pursuant to a sale on August 28, 2008 by LV Pacific Point LLC, a  
4 Delaware limited liability company.

5                   **Palmdale Hills.** Palmdale Hills Property, LLC, a Delaware limited liability  
6 company, a Voluntary Debtor herein, and the owner of the Ritter Ranch Project, the Ritter Cash and  
7 the Palmdale Hills CFD Bonds.

8                   **Palmdale Hills CFD Bonds.** Certain community facilities district bonds issued by  
9 the City of Palmdale that are owned by Palmdale Hills.

10                  **Palm Springs Village Project.** The Project owned by SunCal PSV, located in the  
11 City of Palm Springs, California, as more particularly described herein.

12                  **Permitted Liens.** Statutory liens for Secured Real Property Tax Claims; (b)  
13 easements, covenants, conditions, restrictions and other matters of record affecting real property,  
14 leasehold estates or personalty or any interest therein (excluding any rights of appeal from the Final  
15 Order with respect to the sale or conveyance of the Project) that (i) appear on the lender title  
16 insurance policies concerning such Project issued to the relevant Lehman Lender or (ii) do not in any  
17 material respect detract from the value of the relevant Project and do not individually or in the  
18 aggregate in any material respect interfere with the use, ownership or operation of the property,  
19 excluding Liens that will be removed and stricken as against the relevant Project pursuant to the  
20 Final Order with respect to the sale or conveyance of the Project, (c) the effect of any building and  
21 zoning regulations, now existing or hereafter in effect with respect to the relevant Project that are not  
22 violated by the current use of the Project, (d) oil, mineral and/or water rights, and claims of title  
23 thereto, shown by the public records, (e) discrepancies, conflicts in boundary lines, shortages in area  
24 or encroachments which an inspection or survey of the subject Project would disclose and (f) other  
25 Liens to which the transferor of the property, in connection with such transfer, agrees to take subject.

26                  **Person.** An individual, partnership, corporation, limited liability company, business  
27 trust, joint stock company, trust, unincorporated association, joint venture, governmental authority,  
28 governmental unit, committee or other entity of whatever nature.



**Petition Dates.** The following are dates that each of the Voluntary Debtors Filed their voluntary chapter 11 petitions or Creditors Filed involuntary chapter 11 petitions against the Trustee Debtors:

Palmdale Hills	November 6, 2008
SunCal Beaumont	November 6, 2008
SCC Palmdale	November 7, 2008
SunCal Johannson	November 7, 2008
SunCal Summit Valley	November 7, 2008
SunCal Emerald	November 7, 2008
SunCal Bickford	November 7, 2008
Acton Estates	November 7, 2008
Seven Brothers	November 7, 2008
SJD Partners	November 7, 2008
SJD Development	November 7, 2008
Kirby Estates	November 7, 2008
SunCal I	November 7, 2008
SunCal III	November 7, 2008
SCC Communities	November 19, 2008
Del Rio	November 19, 2008
Tesoro	November 19, 2008
Delta Coves	November 14, 2008
SunCal Heartland	November 12, 2008
SunCal Marblehead	November 12, 2008
SunCal Northlake	November 12, 2008
SunCal Oak Valley	November 12, 2008
SunCal Century City	November 14, 2008
SunCal PSV	November 14, 2008
SunCal Torrance	November 14, 2008
SunCal Oak Knoll	November 19, 2008

**Plan.** The Lehman Plan.

**Plan Debtors.** The 24 Debtors for which the Lehman Plan is being proposed, consisting of all of the Debtors other than SJD Development and SunCal III (the Estates of which are believed to hold no Assets of any significant current or potential value).

**Plan Release.** In exchange for the extension of credit represented by the additional Lehman Post-Confirmation Loans, the ES Settlement Offer and the delayed satisfaction of the Secured Claims of the Lehman Related Parties, as of the Effective Date, the Estate of each Plan Debtor shall be deemed to release all claims, including any Litigation Claims except certain Avoidance Actions and certain claims therein and except that, with respect to all Equitable Subordination Claims in an ES Action and certain Cross-Collateralization Claims asserted in a Cross-Collateralization Action, each owner of each PRA Security Project shall have a non-recourse

1 obligation to reconvey each PRA Security Project to the Liquidating Trustee if required by a Project  
2 Related Action Recovery, which obligation shall be secured by the PRA Recovery Security Pool  
3 and, at a Lehman Nominee's election, instead may be satisfied by a Cash payment in the amount of  
4 any Project Related Action Recovery, all as more fully set forth in Section 9.10 of the Lehman Plan.

5 **Plan Reserve.** A reserve fund established by the Liquidating Trustee to hold the  
6 Ritter Cash, all Cash Collateral of a Lehman Creditor held by a Plan Debtor, and any other Cash  
7 required or permitted to be deposited therein on the Effective Date pursuant to the terms of the  
8 Lehman Plan and which funds shall be subject to withdrawal pursuant to the terms of the Lehman  
9 Plan, including (i) all Net Cash Proceeds of sales or refinancing of certain Remaining Real Estate  
10 Projects as set forth in the Lehman Plan and (ii) any other Cash which the Lehman Related Parties  
11 may desire to deposit therein from time to time, all upon the terms and conditions set forth in Article  
12 IX of the Lehman Plan. Such funds shall be held in account(s) to be established at an FDIC insured  
13 bank to be selected by the Liquidating Trustee with the consent of the Lehman Lenders, which  
14 consent shall not be unreasonably withheld. There shall be separate accounts or accounting for the  
15 Ritter Cash, Net Cash Proceeds derived from each Remaining Real Estate Project and other Cash  
16 Collateral of a Lehman Creditor as to a Plan Debtor, with the Ritter Cash being attributed to the  
17 Ritter Ranch Project, Net Cash Proceeds being attributed to the Remaining Real Estate Project, the  
18 sale or refinancing of which resulted in such Net Cash Proceeds and other Cash Collateral of a  
19 Lehman Creditor being attributed to the applicable Plan Debtor.

20 **Post-Confirmation Account(s).** An account with a bank, financial institution or  
21 similar depository in which the Liquidating Trustee holds Cash or other liquid assets or securities for  
22 any Plan Debtor.

23 **Post-Confirmation Expenses.** The fees and expenses incurred by the Liquidating  
24 Trustee or the Committees following the Effective Date (including the fees and costs of  
25 Professionals and the Lehman Post-Confirmation Loans) for the purpose of (i) prosecuting and/or  
26 liquidating the Litigation Claims; (ii) selling or otherwise liquidating the Liquidating Trustee's  
27 Assets; (iii) effectuating Distributions under the Lehman Plan; and (iv) otherwise consummating the  
28 Lehman Plan and closing the Debtor(s)' Cases.

1                   **PRA Recovery Deed(s) of Trust.** A deed or deeds of trust as to any particular PRA  
2 Security Project to be granted by the Lehman Nominee in favor of the Liquidating Trustee upon  
3 conveyance of a Remaining Real Estate Project to one or more Lehman Nominees in connection  
4 with the Lehman Plan Sale or Foreclosure Procedures, subject to any Permitted Liens, which deeds  
5 of trust (a) secure the obligations set forth in the Reconveyance Agreements, and (b) are to be  
6 released or subordinated as set forth in Section 9.7.2(c) of the Lehman Plan. The PRA Security  
7 Deeds of Trust secure, in the aggregate, an amount not in excess of the Maximum DOT Security  
8 Amount.

9                   **PRA Recovery Security Pool.** At any time, collectively, the PRA Recovery Deeds  
10 of Trust then in effect and the Plan Reserve.

11                   **PRA Security Project.** Each Project conveyed to a Lehman Nominee pursuant to the  
12 Lehman Plan Sale or Foreclosure Procedures.

13                   **Priority Claim.** Any Claim, other than an Administrative Claim or a Priority Tax  
14 Claim, to the extent entitled to priority under Section 507(a) of the Bankruptcy Code.

15                   **Priority Tax Claim.** Any Claim for any Tax to the extent that it is entitled to priority  
16 in payment under Section 507(a)(8) of the Bankruptcy Code or would be so entitled were it not  
17 secured.

18                   **Professional.** A Person (a) employed by the Plan Debtors, the Committees pursuant  
19 to a Final Order in accordance with Sections 327 and 1103 of the Bankruptcy Code and to be  
20 compensated for services rendered prior to the Effective Date, pursuant to Sections 327, 328, 3291,  
21 330 and 331 of the Bankruptcy Code, or (b) for which compensation and reimbursement has been  
22 allowed by the Bankruptcy Court pursuant to Section 503(b) of the Bankruptcy Code.

23                   **Professional Fees.** All Allowed Claims for compensation and for reimbursement of  
24 expenses under Sections 328, 330 and/or 503(b) of the Bankruptcy Code.

25                   **Projects.** The Plan Debtors' real estate development projects as more particularly  
26 described on an Exhibit or supplement hereto to be Filed on or before the Effective Date, together  
27 with all rights, remedies, privileges and easements appurtenant thereto and all other real and  
28 personal, tangible and intangible, property related thereto.

**Project Related Action.** An ES Action or Cross-Collateralization Action.

**Project Related Action Recovery.** An ES Judgment or Cross-Collateralization Judgment.

**Pro Rata.** (a) With respect to any distribution in respect of any Allowed Claim, proportionately, so that the ratio of (i)(1) the amount of property distributed on account of such Allowed Claim to (2) the amount of such Allowed Claim, is the same as the ratio of (ii)(1) the amount of property distributed on account of all Allowed Claims of the Class or Classes of the applicable Estate sharing in such distribution to (2) the amount of all Allowed Claims in such Class or Classes of the applicable Estate; and (b) in calculating allocations of responsibility for obligations among Debtors, Pro Rata shall be determined in reference to the Liquidating Trustee's reasonable estimate of the gross value of each applicable Estate's Assets as of the Confirmation Date.

**Proof of Claim.** A proof of claim as referenced in Bankruptcy Code Section 501(a).

**Proof of Interest.** A proof of interest as referenced in Bankruptcy Code Section 501(a).

**Reconveyance Agreement.** A written agreement to be executed by, and evidencing, among other things, the non-recourse obligations of, a Lehman Nominee to which a PRA Recovery Security Project is conveyed pursuant to the Lehman Plan Sale or Foreclosure Procedures, as more fully set forth in Section 9.7.2(c)(iii) of the Lehman Plan.

**Remaining Other Assets.** All of the then remaining Assets of the Plan Debtors' Estates excluding the Projects, as of the point in time referenced in any particular utilization of this term in the Lehman Plan.

**Remaining Real Estate Projects.** All of the then remaining Projects as of the point in time referenced in any particular utilization of this term in the Lehman Plan.

**Residual Cash.** As to any particular Plan Debtor's Estate, Net Cash Proceeds derived from the liquidation by the Liquidating Trustee of any Remaining Real Estate Projects owned by such Estate and any Remaining Other Assets of such Estate, including any applicable Net Cash Litigation Recoveries in which such Estate has an interest, to the extent not subject to a Secured Claim (or to a Claim to which such Secured Claim is subordinated) and remaining after

1 payment or reserve for the Lehman Post-Confirmation Loans and, as provided in the Lehman Plan,  
2 certain Post-Confirmation Expenses, post-Confirmation Date intercompany payables and due and  
3 payable Allowed Administrative Claims, Allowed Priority Claims and Allowed Priority Tax Claims,  
4 all as more fully set forth in Section 7.10 of the Lehman Plan.

5 **Ritter Cash.** As of the Effective Date, the Cash owned by Palmdale Hills or in  
6 which Palmdale Hills has any residual interest and held in escrow, reserve or other accounts for the  
7 benefit of Lehman Commercial and securing the loans made pursuant to the Ritter Ranch Loan  
8 Agreement.

9 **Ritter Ranch Loan Agreement.** That certain Credit Agreement, dated as of  
10 February 8, 2007, by and among Palmdale Hills, as borrower, and Lehman Commercial, as  
11 administrative agent and lender, pursuant to which the lenders thereunder made loans to the  
12 borrower in the maximum aggregate principal amount of approximately \$264,000,000. The loans  
13 made pursuant to and/or evidenced by the Ritter Ranch Loan Agreement are secured by, among  
14 other things, a first priority deed of trust on the Ritter Ranch Project. The outstanding balance of the  
15 loans under the Ritter Ranch Loan Agreement was not less than \$287,252,096.31 as of the applicable  
16 Petition Date.

17 **Ritter Ranch Project.** The Project owned by Palmdale Hills, located in the City of  
18 Palmdale, California, as more particularly described herein.

19 **SCC Communities.** SCC Communities, LLC, a limited liability company, a  
20 Voluntary Debtor herein, and the owner of the Joshua Ridge Project.

21 **SCC LLC.** SCC Acquisitions LLC, a Delaware limited liability company, a  
22 subsidiary of Acquisitions and an indirect and/or a direct parent of each of the Debtors, but not itself  
23 a Debtor in any of the Cases.

24 **SCC Palmdale.** SCC Palmdale, LLC, a Delaware limited liability company, a  
25 Voluntary Debtor herein, and the Holder of the Allowed Interest in Palmdale Hills.

26 **SCC Palmdale Loan Agreement.** That certain Mezzanine Credit Agreement,  
27 between SCC Palmdale, as borrower, and Lehman Commercial, as lender, pursuant to which the  
28 lender thereunder made a loan to the borrower in the maximum aggregate principal amount of

1 approximately \$95,000,000. The loan made pursuant to and/or evidenced by the SCC Palmdale Loan  
2 Agreement is secured by a pledge of SCC Palmdale's Allowed Interest in Palmdale Hills. The  
3 outstanding balance of the loan under the SCC Palmdale Loan was not less than \$119,664,305.25 as  
4 of the applicable Petition Date.

5 **Schedules.** The schedules of assets and liabilities and list of equity security holders  
6 Filed by the Debtors, as required by Section 521(1) of the Bankruptcy Code, Bankruptcy Rules  
7 1007(a)(3) and (b)(1), and Official Bankruptcy Form No. 6, as amended from time to time.**Secured**  
8 **Claim.** Any Claim, including interest, fees, costs, and charges to the extent allowable pursuant to  
9 Bankruptcy Code Section 506, to the extent that it is secured by a valid and unavoidable Lien on the  
10 Plan Debtor(s)' Assets.

11 **Secured Real Property Tax Claims.** Secured Claims, other than Priority Tax  
12 Claims, held by various government entities for real property tax assessments secured by Liens on  
13 the underlying real properties owned by the Plan Debtors but that are non-recourse to the Plan  
14 Debtors.

15 **Settling ES Claimant(s):** (1) a Settling ES Claimant by Vote or (2) an ES Claimant  
16 in an Estate which accepts the ES Settlement Offer.

17 **Settling ES Claimant(s) by Vote:** Each ES Claimant who votes for acceptance of  
18 the ES Settlement Offer on its Ballot and returns with the Ballot an ES Claimant Release and  
19 Assignment duly executed by such ES Claimant, included with the Ballot.

20 **Seven Brothers.** Seven Brothers, LLC, a Delaware limited liability company, a  
21 Voluntary Debtor herein, and the owner of that portion of the Summit Valley Project not owned by  
22 Kirby Estates or SunCal Summit Valley.

23 **SJD Development.** SJD Development Corp., a California corporation, a Voluntary  
24 Debtor herein, and the Holder of an Allowed Interest in SJD Partners.

25 **SJD Partners.** SJD Partners, Ltd., a California limited partnership, a Voluntary  
26 Debtor herein, and the prior owner of the Pacific Point Project.

27 **Successful Bidder.** With respect to the each Remaining Real Estate Project, the  
28 successful bidder at the auction for the sale of such Remaining Real Estate Project conducted by the

Liquidating Trustee pursuant to the Lehman Plan Sale or Foreclosure Procedures.

**Summit Valley Project.** The Project owned in part by SunCal Summit Valley, Seven Brothers and Kirby Estates, located in the City of Hesperia, California, as more particularly described herein.

**SunCal.** The SunCal Companies, a trade name for Acquisitions and its Affiliates.

**SunCal I.** SunCal Communities I, LLC, a Delaware limited liability company, a Voluntary Debtor herein, and the owner of the equity membership interests in Acton Estates, SunCal Bickford, SunCal Beaumont, SunCal Summit Valley, SunCal Johannson and SunCal Emerald.

**SunCal III.** SunCal Communities III, LLC, a Delaware limited liability company, a Voluntary Debtor herein.

**SunCal Beaumont.** SunCal Beaumont Heights, LLC, a Delaware limited liability company, a Voluntary Debtor herein, and the owner of the Beaumont Heights Project.

**SunCal Bickford.** SunCal Bickford Ranch, LLC, a Delaware limited liability company, a Voluntary Debtor herein, and the owner of the Bickford Ranch Project.

**SunCal Century City.** SunCal Century City, LLC, a Delaware limited liability company, a Trustee Debtor herein, and the owner of the 10000 Santa Monica Project.

**SunCal Century City Loan Agreement.** That certain Loan Agreement, dated as of August 11, 2006, by and between SunCal Century City, as borrower and Lehman ALI, as agent and sole lender pursuant to which Lehman ALI made a loan in the aggregate maximum principal amount of approximately \$120,000,000. The SunCal Century City Loan Agreement is secured by a first-priority deed of trust on the 10000 Santa Monica Project. The SunCal Century City Loan Agreement has a balance due of \$120,000,000.00 as of April 1, 2009.

**SunCal Communities I Loan Agreement.** That certain Credit Agreement, dated as of November 17, 2005, by and among (i) SunCal I and SunCal III, as borrowers, Lehman Brothers, Inc., as sole advisor, sole lead arranger and sole bookrunner, and Lehman Commercial, as syndication and administrative agent and sole lender, pursuant to which the lenders thereunder made a loan to the borrowers in the maximum aggregate principal amount of approximately \$395,313,713.37. The loan made pursuant to and/or evidenced by the SunCal Communities I Loan

1 Agreement is secured directly or indirectly by (a) first priority deeds of trust on the SunCal Bickford,  
2 the Acton Estates, and the SunCal Emerald Projects, (b) pledges of SunCal I's Allowed Interest in  
3 Acton Estates, SunCal Summit Valley, SunCal Beaumont; SunCal Johansson, SunCal Emerald, and  
4 SunCal Bickford; and (c) pledges of SunCal Summit Valley's Allowed Interest in Seven Brothers  
5 and Kirby Estates. The outstanding balance of the loan under the SunCal Communities I Loan  
6 Agreement was \$343,221,391.06 as of the applicable Petition Date.

7 **SunCal Emerald.** SunCal Emerald Meadows, LLC, a Delaware limited liability  
8 company, a Voluntary Debtor herein, and the owner of the Emerald Meadows Project.

9 **SunCal Heartland.** SunCal Heartland, LLC, a Delaware limited liability company, a  
10 Trustee Debtor herein, and the owner of the Heartland Project.

11 **SunCal Johansson.** SunCal Johansson Ranch, LLC, a Delaware limited liability  
12 company, a Voluntary Debtor herein, and the owner of the Johansson Ranch Project.

13 **SunCal Marblehead.** SunCal Marblehead, LLC, a Delaware limited liability  
14 company, a Trustee Debtor herein, and the owner of the Marblehead Project.

15 **SunCal Marblehead / SunCal Heartland Loan Agreement.** That certain Second  
16 Amended and Restated Term Loan and Revolving Line of Credit Loan Agreement, dated as of  
17 October 3, 2007, by and among SunCal Marblehead Heartland Master LLC, SunCal Marblehead,  
18 and SunCal Heartland, as borrowers, and Lehman ALI, as agent and sole lender, pursuant to which  
19 the lenders thereunder made loans to the borrowers in the maximum aggregate principal amount of  
20 approximately \$316,061,300. The loans made pursuant to and/or evidenced by the SunCal  
21 Marblehead / SunCal Heartland Loan Agreement are secured by first priority deeds of trust on the  
22 Marblehead and the Heartland Projects. The outstanding aggregate balance of the loans under the  
23 SunCal Marblehead / SunCal Heartland Loan Agreement was not less than \$354,325,126.15 as of  
24 the applicable Petition Date.

25 **SunCal Northlake.** LB/L-SunCal Northlake, LLC, a Delaware limited liability  
26 company, a Trustee Debtor herein, and the owner of the Northlake Project.

27 **SunCal Northlake Loan Agreement.** That certain Term Loan and Revolving Line  
28 of Credit Loan Agreement, dated as of September 9, 2005, between SunCal Northlake, as borrower,



1 and Northlake Holdings, as successor agent and sole lender, pursuant to which the lenders  
2 thereunder made loans in the maximum aggregate principal amount of approximately \$100,000,000.  
3 The loans made pursuant to and/or evidenced by the SunCal Northlake Loan Agreement are secured  
4 by a first priority deed of trust on the Northlake Project. The outstanding aggregate balance of the  
5 loans under the SunCal Northlake Loan Agreement was not less than \$123,654,776.88 as of the  
6 applicable Petition Date.

7 **SunCal Oak Knoll.** SunCal Oak Knoll, LLC, a Delaware limited liability company,  
8 a Trustee Debtor herein, and the owner of the Oak Knoll Project.

9 **SunCal Oak Knoll/SunCal Torrance Loan Agreement.** That certain Loan  
10 Agreement, dated as of November 30, 2006, between SunCal Torrance and SunCal Oak Knoll, as  
11 borrowers, and Lehman ALI, as agent and sole lender, pursuant to which the lenders thereunder  
12 made a loan to the borrowers in the maximum aggregate principal amount of approximately  
13 \$167,700,000. The loans made pursuant to and/or evidenced by the SunCal Oak Knoll/SunCal  
14 Torrance Loan Agreement are secured by first priority deeds of trust on the Oak Knoll and the Del  
15 Amo Projects. The outstanding aggregate balance of the loans under the SunCal Oak Knoll/SunCal  
16 Torrance Loan Agreement was not less than \$157,870,186.15 as of the applicable Petition Date.

17 **SunCal Oak Valley.** LB/L-SunCal Oak Valley, LLC, a Delaware limited liability  
18 company, a Trustee Debtor herein, and the owner of the Oak Valley Project.

19 **SunCal Oak Valley Loan Agreement.** That certain Term Loan and Revolving Line  
20 of Credit Loan Agreement, dated as of May 23, 2006, by and between SunCal Oak Valley, as  
21 borrower, and OVC Holdings, as successor agent and sole lender, pursuant to which the lenders  
22 thereunder made loans to the borrower in the maximum aggregate principal mount of approximately  
23 \$120,000,000. The loans made pursuant to and/or evidenced by the SunCal Oak Valley Loan  
24 Agreement are secured by a first priority deed of trust on the Oak Valley Project. The outstanding  
25 aggregate balance of the loans under the SunCal Oak Valley Loan Agreement was not less than  
26 \$143,630,091.63 as of the applicable Petition Date.

27 **SunCal PSV.** SunCal PSV, LLC, a Delaware limited liability company, a Trustee  
28 Debtor herein, and the owner of the Palm Springs Village Project.

1                   **SunCal PSV Loan Agreement.** That certain Term Loan and Revolving Line of  
2 Credit Loan Agreement, dated as of February 12, 2007, between SunCal PSV, as borrower, and  
3 Lehman ALI, as agent and sole lender, pursuant to which the lenders thereunder made loans to the  
4 borrower in the maximum aggregate principal amount of approximately \$90,000,000. The loans  
5 made pursuant to and/or evidenced by the SunCal PSV Loan Agreement are secured by a first  
6 priority deed of trust on the Palm Springs Village Project. The outstanding aggregate balance of the  
7 loans under the SunCal PSV Loan Agreement was not less than \$88,257,340.20 as of the applicable  
8 Petition Date.

9                   **SunCal Summit Valley.** SunCal Summit Valley, LLC, a Delaware limited liability  
10 company, a Voluntary Debtor herein, the owner of that portion of the Summit Valley Project not  
11 owned by Kirby Estates or Seven Brothers, and the Holder of Allowed Interests in Kirby Estates and  
12 Seven Brothers.

13                   **SunCal Torrance.** SunCal Torrance, LLC, a Delaware limited liability company, a  
14 Trustee Debtor herein, and the owner of the Del Amo Project.

15                   **Tax.** Any tax, charge, fee, levy, impost or other assessment by any federal, state,  
16 local or foreign taxing authority, including, without limitation, income, excise, property, sales,  
17 transfer, employment, payroll, franchise, profits, license, use, ad valorem, estimated, severance,  
18 stamp, occupation and withholding tax. "Tax" shall include any interest or additions attributable to,  
19 or imposed on or with respect to such assessments.

20                   **Tesoro.** Tesoro SF, LLC, a Delaware limited liability company, a Voluntary Debtor  
21 herein, and the owner of the Tesoro Project.

22                   **Tesoro Project.** The Project owned by Tesoro located in the City of Santa Clarita,  
23 California, as more particularly described herein.

24                   **Trustee.** Steven M. Speier, the duly appointed trustee of the Trustee Debtors.

25                   **Trustee Debtor(s).** The following chapter 11 debtors, individually or collectively,  
26 that are represented by the Trustee: Delta Coves, SunCal Heartland, SunCal Marblehead, SunCal  
27 Northlake, SunCal Oak Valley, SunCal Century City, SunCal PSV, SunCal Torrance, and SunCal  
28 Oak Knoll.

1                   **Trustee Debtors' Committee.** The Official Committee of Unsecured Creditors of  
2 the Trustee Debtors appointed in the Cases of the Trustee Debtors pursuant to Section 1102 of the  
3 Bankruptcy Code.

4                   **Unclaimed Property.** Cash held for Distribution if either (1) such the Distribution of  
5 Cash to the Holder of any Allowed Claim is returned to the Liquidating Trustee (*e.g.*, as  
6 undeliverable) and the check or other similar instrument or Distribution remains unclaimed for one  
7 hundred twenty (120) days from sending or (2) the check or other similar instrument used for the  
8 Distribution to the Holder of any Allowed Claim remains uncashed for one hundred twenty (120)  
9 days from sending; or (3) the Liquidating Trustee does not have an address for a Holder of any  
10 Allowed Claim on the date such Distribution first could have been made under the Plan and for one  
11 hundred twenty (120) days thereafter.

12                   **Voluntary Debtor(s).** The following chapter 11 debtors and debtors-in-possession,  
13 individually or collectively, Palmdale Hills, SunCal I, SunCal III, SCC Palmdale, Acton Estates,  
14 SunCal Beaumont, SunCal Emerald, SunCal Johansson, SunCal Bickford, SunCal Summit Valley,  
15 Seven Brothers, Kirby Estates, SJD Partners, SJD Development, SCC Communities, Del Rio and  
16 Tesoro.

17                   **Voluntary Debtors' Committee.** The Official Committee of Unsecured Creditors of  
18 the Voluntary Debtors appointed in the Cases of the Voluntary Debtors pursuant to Section 1102 of  
19 the Bankruptcy Code.

20                   2.       **Rules of Construction.** For purposes of the Lehman Plan and the Lehman Disclosure  
21 Statement, unless otherwise provided herein or in the Lehman Disclosure Statement, (a) whenever  
22 from the context it is appropriate, each term, whether stated in the singular or the plural, will include  
23 both the singular and the plural; (b) each pronoun stated in the masculine, feminine or neuter  
24 includes the masculine, feminine and neuter; (c) any reference in the Lehman Plan or the Lehman  
25 Disclosure Statement to an existing document or schedule Filed or to be Filed means such document  
26 or schedule, as it may have been or may be amended, modified or supplemented pursuant to the  
27 Lehman Plan; (d) any reference to an entity as a Holder of a Claim or Interest includes that entity's  
28 successors and assigns; (e) except as otherwise indicated herein all references in the Lehman Plan or

1 the Lehman Disclosure Statement to Sections and Articles are references to Sections and Articles of  
2 or to the Lehman Plan; (f) the words "therein," "thereunder" and "thereto" refer to the Lehman Plan  
3 in its entirety rather than to a particular portion of the Lehman Plan; (g) unless otherwise provided in  
4 the Lehman Plan or the Lehman Disclosure Statement, any reference in the Lehman Plan or the  
5 Lehman Disclosure Statement to a contract, instrument, release, indenture, agreement, or other  
6 document being in a particular form or on particular terms and conditions means that such document  
7 shall be substantially and materially in such form or substantially and materially on such terms and  
8 conditions; (h) any reference in the Lehman Plan or the Lehman Disclosure Statement to a document  
9 or schedule to the Lehman Plan, Plan Documentary Supplement, or Lehman Disclosure Statement  
10 Filed or to be Filed means such document or schedule, as it may have been or may be amended,  
11 modified, or supplemented; and (i) the rules of construction set forth in section 102 of the  
12 Bankruptcy Code shall apply to the extent such rules are not inconsistent with the express terms of  
13 the Lehman Plan or the Lehman Disclosure Statement or any other provision in this Section.  
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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11 Case No.
	:	
LEHMAN BROTHERS HOLDINGS INC., <i>et al.</i> ,	:	08-13555 (JMP)
	:	
Debtors.	:	(Jointly Administered)
	:	
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**ORDER PURSUANT TO FEDERAL RULES OF  
BANKRUPTCY PROCEDURE 6004 AND 9019 AND SECTION 363 OF THE  
BANKRUPTCY CODE AUTHORIZING LEHMAN COMMERCIAL PAPER INC. TO  
CONSUMMATE TRANSACTIONS CONTEMPLATED IN THE CHAPTER 11 PLAN  
PROPOSED BY THE LEHMAN LENDERS IN THE SUNCAL CHAPTER 11 CASES**

Upon the motion (the “Motion”),<sup>1</sup> of Lehman Commercial Paper Inc. (“LCPI” and together with its affiliated debtors in the above-referenced chapter 11 cases, as debtors and debtors in possession, the “Debtors”), pursuant to Rules 6004 and 9019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and section 363 of title 11 of the United States Code (the “Bankruptcy Code”) for an order authorizing LCPI to enter into and consummate the transactions proposed in the chapter 11 reorganization plan for the SunCal Plan Debtors proposed by LCPI and certain of its non-debtor affiliates and annexed as Exhibit A to the Motion (the “Proposed Plan”), all as more particularly described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the Standing Order M-61 Referring to Bankruptcy Judges for the Southern District of New York Any and All Proceedings Under Title 11, dated July 10, 1984 (Ward, Acting C.J.); and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to

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<sup>1</sup> Capitalized terms used, but not otherwise defined, herein shall have the meanings ascribed to them in the Motion.

28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided in accordance with the procedures set forth in the amended order entered February 13, 2009 governing case management and administrative procedures [Docket No. 2837] to (i) the United States Trustee for the Southern District of New York; (ii) the attorneys for the Official Committee of Unsecured Creditors; (iii) the Securities and Exchange Commission; (iv) the Internal Revenue Service; (v) the United States Attorney for the Southern District of New York; (vi) counsel to the SunCal Voluntary Debtors; (vii) counsel to the SunCal Involuntary Debtors; and (viii) all parties who have requested notice in these chapter 11 cases, and it appearing that no other or further notice need be provided; and the Court having found and determined that the relief sought in the Motion is in the best interests of LCPI, its estate and creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefore, it is

ORDERED that the Motion is granted; and it is further

ORDERED that, pursuant to Bankruptcy Rule 9019 and section 363(b) of the Bankruptcy Code, LCPI is duly authorized to (i) enter into and consummate all of the transactions contemplated the Proposed Plan; (ii) execute and deliver such assignments, conveyances, and other documents, and instruments of transfer and to take such other actions as may be reasonably necessary to consummate the transactions contemplated by the Proposed Plan, and (iii) consent to any amendment, restatement, waiver, supplement or other modification of any of the documents contemplated under the Proposed Plan, it being understood that any actions described in this paragraph taken by LCPI or its affiliates may be taken without the necessity of (x) any further court proceedings or approval or (y) any consent of any third party, and shall be conclusive and binding in all respects on all parties in interest in these cases; and it is further

ORDERED that the Proposed Plan may be modified, amended or supplemented by the proponents thereof without further order of the Court, and any agreements related to the Proposed Plan, documents or other instruments may be modified, amended or supplemented by the parties thereto, in a writing signed by such parties, and in accordance with the terms thereof, without further order of the Court, *provided* that, in each case, any such modification, amendment or supplement does not have a material adverse effect on LCPI's estate; and it is further

ORDERED that this Order shall be effective and enforceable immediately upon entry and its provisions shall be self-executing and shall not be stayed pursuant to Bankruptcy Rule 6004(h); and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation and/or interpretation of this Order.

Dated: October \_\_, 2009  
New York, New York

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UNITED STATES BANKRUPTCY JUDGE